ROMANÆ HISTORIÆ

ANTHOLOGIA RECOGNITA ET AUCTA.

AN

English EXPOSITION

OF THE

ROMAN

ANTIQUITIES;

WHEREIN

Many ROMAN and ENGLISH

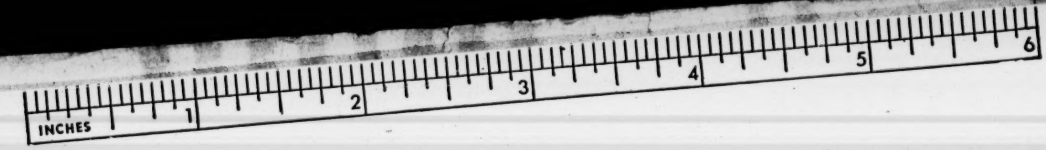
Offices are parallel'd, and divers obscure Phrases Explained.

For the use of *Abingdon* School.

Newly Revised and Enlarged by the Authour.

LONDON,

Printed by *R. W.* for *Peter Parker*, and are to be sold at his Shop in *Popes-head* Alley, next to *Lombard-street*, 1666.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METRIC
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VIRO
COLENDISSIMO
D. *JOHANNI YOUNG*
SS. THEOLOGIÆ DOCTORI
& Eccleſiæ *Wintonienſis* Decano
Ornatiſſimo.

Εὐδαιμονίσατα διδγειν

Vir Ornatiſſime,

NOn liberi quam libri pluribus exponi periculis ſolent, cum primum prodeant in lucem: utriſque pariter opus eſt tutelari aliquo numine obſtetricante. Hoc olim ſenſit anthologia hæc noſtra primum edita: idem ſentit eadem in hodierna duarum ſectionum, & capitulorum aliquot ſuperfœtatione. Nacta igitur ſecundas ſuas cogitationes te ambit Patronum, qui facem

aliquam mihi in his antiquitatibus obambulanti prætuliſti, & quem multum fuiſſe in ſtudiis meis promovendis, palam, & ſub Dio prædico, videbis me aliquoties alium à doctiſſimis viris, & ab illorum ſententiis alienum: Veritate enim præponderante, nullus apud me Plato, nullus erit Ariſtoteles, (nolo ego iſtiuſmodi inſaniam inſanire, utcunque ſplendidam & autoritativam:) Cæterùm tacitus hoc facio, & apud me, citra omnem velitationis pulverem, rarò admodum quovis protracto in arenam, ne videar ex illorum numero, qui ex nuda pugna cum adverſario aliquo eximio commiſſa, gloriolæ neſcio quos fumos ſibi pollicentur. Hæc ſcribendi ratio ſi tibi placeat, alios non moror, quibus ſi ſimplex veritas non arriſſeret, cum magnis nominibus deviare per me licebit. Vale, & meas Muſas, ut ſoleas, ama: illæ, quod jam faciunt, te colent ſemper, & omni obſequio proſequentur. Datum Abindoniæ 14. Calend. Decemb. Anno χριστιανίας 1622.

Dignitati tuæ

multiplici nexu mancipatus,

Tho. Godwyn.

BENEVOLO LECTORI.

Ἐυπραττειν Ἐυκρινειν

MIRARIS forſan & redarguis, quòd nundum deſtitum ab his elementaribus; quaſi vita mihi vitalis foret, in his minutiis integram meam ætatem eludere, & votum unicum in his prævi-is ſtudiis ſenium contrahere. Qui ſic ſentis, nec me ſatis noris; nec ludi literarii (pone lenocinium nominis, moletrinæ dices) iniquas leges, aut miſerias quotidianas, & omnigenas. Sentio ego me in piſtrinum damnatum, & cogita tu hanc Anthologiam è piſtrino prodeuntem. Si minus placeat, illud dabis puerorum circumſtrepentium ſuſurris, inter quos nata eſt: Si placeat, illud debes puerorum crebris interrogatinuculis, quarum enodationes, me vel invitum indies reducunt ad hæc ſtudia, quæ alias jamdudum juſſiſſem ſuas ſibi res habere; Sic me amet Theologia, ſacratior mihi pagina in votis, cùm hæc in manibus, ludo cogente. Interim te monitum velim, quæ acceſſere, non vulgaria, aut obvia, nec quæ vulgus hominum, aut docuit, aut didicit.

Vale.

A short Table, shewing the Argument of every Book and Section.

Lib.

1. *Of the Roman City.*
   1. *Of the chief parts thereof.*
   2. *Of the general divisions of the Roman People.*

Sect.

2. *Of the Roman Religion.* Sect.
   1. *Of certain general divisions of their Gods.*
   2. *Of the* Roman *Priests, with some particular Gods; together with their rites in marriages and burials.*
   3. *Of the Roman Games, which endeth with their manner of taking meat.*

3. *Of the state Political.* Sect.
   1. *Of their Assemblies, called Comitia, which Section is begun with the Roman year, concluded with two Chapters of Roman Garments.*
   2. *Of their Civil Magistrates.*
   3. *Of their Civil Punishments.*
   4. *Of all those Laws which I have observed to be touched in* Tully's *Orations.*

4. *Of the art military, as it was practised by the Romans.* Cap.
   1. *Of their manner observed in establishing their Leagues.*
   2. *Of the* Roman *Legion, and the parts thereof.*
   3. *Of the manner of Besieging a City.*
   4. *Of the punishments towards their Enemies Captivated.*
   5. *Of punishments towards the Roman Souldiers offending.*
   6. *Of certain rewards, after the performance of any Noble* Exploits.

THE

ROMAN̄ ANTIQUITIES

Expounded in *Engliſh.*

LIB. 1. Sect. 1.

Of the Chief Parts of the City.

CHAP. I.

De modo condendarum, delendarumq; urbium.

BEfore we handle the deſcription of the particular places in the *Roman* City, it will not be amiſs to premiſe ſomewhat concerning the ancient manner of building, and raiſing Cities. In the Building of Cities, the Founders thereof did uſually conſult with their Gods in their *Augural* obſervations; and [a] this courſe was obſerved by *Romulus* himſelf, in the firſt Foundation of *Rome*; After their *Augural* obſervations, they marked out the place where the wall of the City ſhould

[a] M. Tullius lib. 1. de divinat.

should be built, by plowing up the ground, and because they left that space of ground unplowed, lightly lifting the plough over it, where they appointed the Gate of the City, thence *a portando*, from carrying and lifting the plough, they called the Gate *Porta*. This custome is fully described by *b Cato*: *Captato augurio, qui urbem novam condebat, tauro & vaccâ arabat: ubi arâsset murum faciebat, ubi portam volebat esse, aratrum tollebat & portam vocabat.* *Vergil* also alludeth unto it,

b M. Cato in fragm.

Interea Æneas urbem designat aratro,

The manner hereof was, that he who held the plough, did cast up the skirt of his gown on the right shoulder, and gird himself about, either because this was the usual habit of such who performed holy Rites; in the number of which, this present action was reputed; or that he might the more readily address himself to the business; or lastly, that he might symbolically by that pacifical habit intimate; that the flourishing estate of a City, is not so much preserved by war, as by peace. Hence *Ovid*, *Lib.* 4. *Fastorum.*

Ipse tenens stivam, designat mœnia sulco,
Alba jugum niveo cum bove vacca tulit.

c Cœl. Rhod. ant. l. 26. c. 5.

The *c* like custome was used also in the raising or demolishing of Cities, when they had been vanquished by the enemies, which observation giveth light to that of *Horace*, *Lib.* 1. Od. 16.

——— Urbibus ultimæ
Stetêre causæ cùm perirent
Funditus, imprimeretque muris
Hostile aratrum exercitus insolens.

CHAP. II.

De Monte Palatino.

TOuching the Name of *Rome*, from what occasion the City should be so denominated, divers Authours conceit it diversly. *d* Some are of opinion, that this City was built long before *Æneas* came out of *Troy*, and was then called

d Vid. Ant. Constant. in Ovid. Fast. l. 1.

called by the Latines *Valentia*, which was a name of strength, whence *Evander* coming from *Italy*, called it *Roma* from ῥωμη *Robur*. Others say, it was so called from *Ascanius* his daughter, whose name was *Roma*. But it is agreed upon by most Writers, that the Founders were *Romulus* and *Remus*, and from *Romulus* it was called *Roma*, not *Romula*, because the diminutive, *Romula*, might ominate less prosperity thereunto. *e* Some say, that he built it in form of a quadrangle, upon one only hill, called *Mons Palatinus*. *f* Others say, that *Fabius* left *Rome* as it was first built, with the fields thereof, painted in the form of a bow, the river *Tiber* being the string thereof. Upon this *Palatine* hill, was always the seat of the *Roman* Empire, which from the hill took the denomination of a *Pallace*: and hence all *g* stately buildings which we call *Pallaces*, took their name, *Palatia*. This hill had his first appellation *h* *Balatinus à Balando*, from the bellowing of cattle pasturing therein former times, and afterwards the first letter being changed, it was called *Palatinus*: by the figure αντιστοικον. *Virgil* seemeth to be of opinion, that the hill was called *Palatinus*, by *Evander*, in remembrance of his grandfather, whose name was *Pallas*, according to that

e Rosin. ant. l. 1. c. 2.
f Sig. de jur. Rom. l. c. 2.
g Rosin. ant. l. 1. c. 4.
h Vid Serv. in Æn. l. 8.

----Posuere in montibus urbem,
Pallantis proavi de nomine Pallanteum. Virg. Æneid. l. 8.

In processe of time six other hills by several Kings of *Rome* were added; whereby the City, and the *Pomærium*, that is, the territories of the City were enlarged: and *Rome* called *Urbs septicollis, id est*, the City upon seven hills.

Sed quæ de septem totum circumspicit orbem
Montibus, imperii Roma deûmque, locus. Ovid. trist. lib. 1. Eleg. 4.

Upon this *Palatine* hill also stood the *Asylum*, or Sanctuary of refuge, which *Romulus* opened *i* in imitation of *Cadmus*, who at the building of *Thebes* was said to have opened a Sanctuary of Refuge, whither whatsoever Malectour

i Alex. Gen. dier. l. 3. c. 20 ubi plura lectione digna de Asylis.

could escape, were he bond or free, he was not to be punished. It was much like unto a custome of the people in the City *Croton*, who flying unto the altars of their gods, obtained the forgiveness of faults not voluntarily committed. Whence these two phrases are expounded alike, *Ad te tanquam ad Asylum*, and *Ad te tanquam ad aram confugimus, id est*, we fly unto thee as our only refuge.

CAP. 3.
De monte Capitolino.

THis hill was famous for three names: it was called *Capitolium*, *mons Tarpeius*, and *mons Saturni*. It was named *Saturnes* hill *k* from the Heathenish god *Saturne*, who vouchsafed to undertake the protection of that place. It was named the *Tarpeian* hill *l* from *Tarpeia* one of the Vestall Nuns, daughter to the chief Keeper of the Capitol, (this hill being the castle of defence for the whole town) For this *Tarpeia* betrayed the Capitol into the enemies hands, bargaining to have the golden bracelets upon her enemies left hands, for this her treason. Now the enemies when they were admitted in, did not cast their bracelets alone, but their bucklers also upon her through the weight whereof she was pressed to death: upon which occasion the whole hill was afterwards called, the *Tarpeian* mount: but more principally a certain rock of that hill called *Tarpeia rupes*, from whence malefactors were sundry times tumbled headlong. The same was likewise called the *Capitol*, because when the foundation of a certain Temple, built in the honour of *Jupiter* was laid; a mans head, full fresh and lively, as if it had been lately buried, *m* yea hot blood issuing out of it, was found there. *n Arnobius* saith, that the name of this man being alive was *Tolus*, and hence from *Caput* and *Tolus*, the whole hill was called *Capitolium*.

1. *k* Rosin. ant. l. 1. c. 5.
2. *l* Plutar. in Romulo.
3. *m* Dion. Halicar. l. 4. *n* Lyl. de magnitud. Rom. c. 5.

CAP.

CAP. 4.
De colle Quirinali.

THis hill being in former time called *Agonalis*, then began to be called *Quirinalis*, when certain *Sabines*, called in Latine *Curetes*, came and inhabited there, (truce being made between the *Romans* and the *Sabines:*) though ſome would therefore have it named *Quirinalis*, becauſe there was a Temple erected in the honour of *Romulus*, called alſo *Quirinus*. It was called in the time of the Emperours *mons Cabellus*, that is, the horſe hill, taking its denomination from two marble ſtatues of *Alexander* taming his horſe *Bucephalus:* which ſtatues *Conſtantine* the Emperour brought to *Rome*, and placed them in the midſt of certain Baths, which he made upon this hill. There do appear in this hill three riſings, or hillocks; the one being called *Salutaris*, the other *Martialis*, and the third *Latiaris*. All this may be collected out of *o Roſinus*.

o Ant. Rom. l. 1. c. 6.

CAP. 5.
De monte Cœlio.

THis hill hath his name from a certain *p* Captain of *Hetruria*, which aſſiſted *Romulus* againſt the *Sabines*. On this hill, King *Tullus Hoſtilius* erected ſtately edifices, which for a time ſerved as his Palace: but afterward they became the chief Councel-houſe, whether the *Senatours* aſſembled themſelves, for the determining of State-matters: and becauſe this *Curia*, did far exceed all others, therefore Authors many times uſe this word *q Curia* ſimply, without any adjunction, to ſignifie *Curiam Hoſtiliam*, as if there were no other. It much reſembleth our Privy-councel Chamber, in reſpect that none might ſit there, but only *Senatours*; whereas in the Court-houſe, which *Pompey* built (being therefore called *Curia Pompeia*)

p Alex. Gen. dier. l. 6. c. 11.

q Alex. Gen. dier. l. 1. c. 16.

r Rosin. ant l. 7. c. 5. *Pompeia*) r other City Magistrates were admitted amongst the *Senatours*: and in *Curia Julia*, *id est*, the Court-

ſ Rosin. ibid. house which *Julius* made, were examined ſ forraign matters, as Embaſſages: but in *Curiâ Hoſtiliâ* domeſtical matters only were treated of, and that only by the *Senatours*.

t Munst. in ſua Coſmog. l. 2. c. 9. t At this preſent time, this hill is beautified with many Chriſtian Churches, as the Churches of Saint *Stephen*, S. *Paul*, and S. *John*, our Saviours Hoſpital, *&c.*

u Alex. Gen. dier. l. 6. c. 11. u It was alſo called *Mons Querculanus*, from the abundance of Oakes growing there.

CAP. 6.
De monte Eſquilino.

x Rosin. ant l. 1. c. 8. THis hill was ſo named *quaſi* x *excubinus ab excubiis*, *id eſt*, from the night watching, which *Romulus* did undertake upon that, ſomewhat diſtruſting the fidelity of the *Sabines*, in the beginning of their league. In this hill there were three hillocks, named, *Ciſpius*, *Oppius*, and *Septimeus*.

CAP. 7.
De monte Aventino.

a Alex. Gen. dier. l. 9. c. 11. THe *Aventine* mount, took his name a from *Aventinus*, a certain King of *Albanum*, which was there buried. Upon this hill ſtood *Hercules* his Altar, and certain Temples conſecrated to *Juno*, *Diana*, *Minerva*, *Lucina*, and *Murcia*, *id eſt*, *Verus*: whence the hill hath ſometimes been called *Diana* her hill, and *mons Murcius*.

b Plutar. in Romulo. Upon b this mount, *Remus* would have built *Rome*, and therefore it was called *Remonius mons*: but ſince, it hath been called *mons Rignarius*, as it appeareth by *Plut.* in the ſame place. It had moreover the name of the *Holy mount*, being called in Latine *Mons ſacer*.

CAP.

CAP. 8.
De monte Viminali.

BEcauſe of the abundance of wicker twigs, which did grow upon this hill, it was called *Mons Viminalis*, *vimen* ſignifying a Twigge or Ozier. I am not ignorant, that ſome would have this hill to be named *Viminalis*, from *Jupiter Vimineus*, whereas *Jupiter* himſelf was named *Vimineus* from this hill, becauſe he had here many Altars erected in the honour of him. Both this hill and *Jupiter*, were called *Fagutales*, from *ſylva fagea*, *id eſt*, a cops of Beech-trees, which did grow thereupon. *Vid. Roſin. Antiq. lib.* 1. *cap.* 9.

CAP. 9.
De tribus collibus adjectis.

THree *c* other hills there were, which in proceſſe of time were added unto the City; which partly, becauſe they were not included within the *Pomerium* ſo ſoon as the other, but chiefly becauſe they were not of ſuch note, therefore *Rome* retained the name *Septi-collis*. The firſt of thoſe hills was called *Collis Hortulorum*, *id eſt*, the hill of Gardens, ſo tearmed becauſe of the many Gardens near adjoyning. *d* Here was the *Cirque*, or the ſhew place of the ſtrumpet *Flora*, which made the people of *Rome* heir to thoſe goods which ſhe had gotten by proſtituting her body to young Gentlemen, leaving alſo a certain ſum of money to procure a celebration of her birth-day: which becauſe of her infamy, the people ſhaming to do, they feigned her to be the Goddeſſe of flowers, and that ſhe muſt be firſt appeaſed, by ſports and plays, performed in the honour of her, before the trees and fruits of the earth would proſper; *e* and that they might gain the better credit unto this their Fable, they adde further, that ſhe was once called *Chloris*, and was married unto *Zephyrus*,

c Roſin. ant. l. 1. c. 11.

d Bart. Lat. in Verrin. Orac. 7.

e Lactant. de fal. relig. l. 1. c. 20.

from

from whom by way of dowry she received power over the flowers. The second was called *Janiculus*, from *Janus* that two-faced God: who, as Writers testifie, was there buried. It did lye beyond the river *Tiber*, and hath now changed its name, being called from the yellow sands, *Mons aureus*, and through negligence of the Printer, *Montorius, id est*, the Golden Mountain. The third was famous for the many divinations, and prophesies, uttered upon it, and thence was it named *Vaticanus* from *Vaticinium*, a fore-telling. *f* It is at this time famous for a Library in it, called *Bibliotheca Vaticana*.

f Munst. in suo Cosmog. l. 2. c. 8.

CAP. 10.

De Foro Romano.

Forum hath divers acceptions: some times it is taken for a place of negotiation, or merchandising, which we call a *Market-place*: and being taken in this sence, it hath commonly some adjective joyned with it, as *Forum boarium*, the Beast-market, *Forum piscarium*, the Fish-market, *Olitorium forum*, the Herb-market: other times it is taken for any place, wheresoever the chief governour of a Province doth convocate his people together, there to give judgement according to the course in law; whence a man is said, *Forum agere*, *g* when he keeps the *assizes*, and *Forum indicere*, when he appointeth the place where the *assizes* shall be kept. Thirdly, it is taken for a place, where controversies in law are judicially determined, and Orations are had unto the people. At first, of this sort were only three, *Romanum*, *Julium*, and *Augustum*, as is clearly evidenced by that of *Martial*,

g Hubert. in Cic. l. 3. ep. fam. 6.

Atque erit in triplici par mihi nemo foro.

Afterward the number was increased to six distinct *Forums*: one called *Forum Julium*, because it was built by *Julius Cæsar*. A second was added by *Octavius Augustus*, called therefore *Augusti Forum*. The third *Forum*, was

founded

founded by *Domitian* the Emperour: but by reaſon of his ſudden death, *Nerva* had the finiſhing thereof. It had the name of *Forum Tranſitorium*, the tranſitory *Forum*, becauſe there was *Tranſitus*, *id eſt*, a way or paſſage through it into three ſeveral Market-places. The ſame *Martial* called it ſometimes *h Forum Palladium*, becauſe in the middle thereof a Temple was erected in the honour of *Minerva*. A fourth was added by the Emperour *Trajanus*, wherein was erected a ſtately column or pillar 140. cubits high, having all the noble exploits performed by *Trajanus* engraven in it: another was called *Saluſtii Forum*, becauſe *Saluſt* bought it with divers Gardens adjoyning, which ſince have been called *horti Saluſtini*. The laſt *Forum*, which indeed was firſt built, and in all reſpects excelled the reſt, was called, *Forum Romanum*, and *Forum vetus*, or by way of excellency, the *Forum*, as if there were no other *Forum*: where we muſt underſtand, that as often as *Forum* isuſed in this latter ſenſe, namely, for a pleading place, it is ſo uſed figuratively, by the figure Synecdoche: for in truth the pleading place, wherein Orations were had, was but one part of the *Forum Romanum*, namely, that *Chappel*, or great building, which they called *Roſtra*. *i* Round about this *Forum Romanum*, were built certain Trades-mens ſhops, which they termed *Tabernæ*, and alſo other ſtately buildings, called *Baſilicæ Pauli*. Here was the *Comitium*, or Hall of Juſtice; the *Roſtra*, *id eſt*, the Orators Pulpet; *Saturnes* Sanctuary, or the common treaſure-houſe, and *Caſtors* Temple: of all which in their order.

h Lipſius de magnitud. Rom. l. 3. c. 7.

i Hen. Sal. muto in Pancirol. lib. rerum deperd it cap. de Baſil. & taber.

CAP. 11.
De Baſilicis.

Baſilicæ were upper buildings, of great ſtate and much coſt, being ſupported with *Pilæ*, *id eſt*, flat-ſided pillars; and having underneath them walks, much reſembling our Cloiſters, ſaving the *Intercolumnia*, or ſpace between

tween the pillars lay open unto the very ground. That they were upper buildings may be collected by the custome of many men, which were wont to walk under those Basilical buildings, and therefore were called, *Subbasilicani* by *Plautus*. The use of these were principally for the k Judges to sit in judgement: but in their absence it was lawful for Marchants to deal in their businesses. Those of chief note were three, thus named, *Pauli*, *Porcia*, and *Julia*.

k Sigon, de udiciis. l. 1. c. 28.

CAP. 12.
De Comitiis.

l Sigon. de jud. l. 1. c. 7.

Comitium l was a part of the *Forum Romanum*, being a great large hall of justice, which for long time was open at the top, having no covering, and for that reason the assemblies were often dissolved in rainy, or unseasonable weather. In it stood the *Tribunal*, being a place erected up on high, in form of our pulpits, but many degrees larger, and in the midst thereof, the *Sella Curulis*, *id est*, the Ivory chair, from whence the chief Magistrate administred justice; other inferiour Magistrates sitting on Benches on each side, which were called *Subsellia*, because they were lower than the Tribunal. Those which sate upon these Benches had power *cognoscere*, but not *pronunciare*; much like to our Justices a Assises, which may examine or inform against a malefactor, but not condemn him. Where we may observe the difference between *Comitium*, signifying such an edifice, to building, and *Comitia*, signifying the *Roman* Assemblies: both being called *à coeundo*. This hall was many times called by the name of *Puteal Libonis*. The reason of which name is rendred thus by m some. That in this *Comitium Attius Navius* did once with a Razor cut in two a Whetstone, and in memory thereof, his Statue was erected, with an Hat upon his Head, for *Puteal* properly doth signifie the Cover of a Well, but in a large acception, it signifieth

m Cœl. Rhod. l. 10. c. 17.

ſignifieth a broad-brimmed hat, as *Cœlius Rhodiginus* noteth in the ſame place. *n Cicero* toucheth this: *Cotem illam, & novatulam defoſſam in comitio, ſupraque impoſitum Puteal accepimus.* But why it ſhould be called *Puteal Libonis*, is yet doubtful, except haply *Libo* was the firſt erector of this ſtatue. That it was a common Court, and known place of Juſtice, *Horace* witneſſeth: *Roſcius orabat, adeſſes ad puteal cras.*

n Cic. de div. nat.

CAP. 13.

De Roſtris.

NExt to the *Comitium* ſtood the *Roſtra*, a goodly fair Edifice, in manner of the body of a Cathedral Church: In it ſtood an Orators Pulpit, deckt and beautified with the ſtems of many Ships; which the *Romans* got from the people of *Antium*, in a memorable battel upon the Sea: And *o* hence from thoſe Ship-beaks, called in Latine *Roſtra*, hath this place taken its name. It may be Engliſhed, the great Oratory, or place of *Common-plea*.

o Hubert. in Cic. ep. lib. 8. ep. fam. 1.

CAP. 14.

De Templo Caſtoris.

ANother part of the *Forum* was a Sanctuary-built in the honour of *Caſtor* and *Pollux*: the reaſon thereof was becauſe they appeared unto the *Romans* in the Latine war, in the likeneſſe of two Angels ſent from Heaven to lead the *Roman* army, and to aſſiſt the Romans againſt the *Latines*: who being vanquiſhed, they ſuddenly were departed out of the field none knowing how: and even in the ſame moment they appeared upon their ſweating Horſes unto the *Roman* Citizens in the *Forum*, who taking them for Souldiers, demanded what news they brought home from the Camp; they replyed, that the *Romans* were Conquerours: which newes being delivered, they ſuddenly vaniſhed, and were ſeen

no more. Upon this occaſion did *A. Poſthumius* being at that time *Dictator*, build a Temple in that place of the *Forum*, where they were ſeen in honour of them both. Although in the after Ages, it had the name only of *Caſtors* Temple. Whence aroſe the jeſt of *M. Bibulus*, againſt his fellow Conſul *Julius Cæſar*, ſaying; it fared with him, as it did with *Pollux*; *id eſt*, as this Temple which was erected in the honour of both the brethren, carried the name only of *Caſtros* Temple; ſo the great expences in exhibiting ſhews in the time of their Conſul-ſhip, though they were deeper on *Bibulus* his ſide, yet *Cæſar* carried away all the thanks, and credit. In ſo much, that the People being wont to ſubſcribe the names of both Conſuls at the end of their Deeds, and Charters, for a Remembrance of the Year; that year they wrote, ſuch a thing done; not *Bibulus* and *Cæſar*, but *Julius* and *Cæſar*, being Conſuls.

CAP. 15.

De æde Saturni.

Saturns Sanctuary *q* was the Common Treaſure-houſe, wherein the Subſidie Money which the Commons paid unto the Treaſurers, called *Quæſtores*, was to be laid up, whereof diverſe Conjecture diverſly. *Alexander Neapolitanus* Alex. Gen. dier. l. 4. c. 15. *op. r* ſaith, that *Saturne* found out the uſe of braſen money: and therefore this Temple might be thought the fitteſt place for the Treaſury. *Plutarch* thinketh rather, that the making of the Treaſury in that place did allude to the integrity of time, wherein *Saturne* reigned, being the Worlds Golden Age. *ſ* But the moſt received opinion, is the ſtrength of the Place, whereby it was the ſafer from Theeves. The Temple, by reaſon of the uſe it was put unto, was called *ærarium* from *æs*, *id eſt*, Braſſe: Which name now is common to all Treaſure-houſes; for that the firſt money uſed by the *Romans* was of that mettall, until the year of *Rome*, 485. (as *Pliny* wit-

q Plutarch in Publicola.

r Alex. Gen. dier. l. 4. c. 15.

ſ Alex. Gen. dier. l. 2. c. 2.

witneſſeth, *lib.* 3. *cap.* 33.) *t* Some are of opinion, that before the uſe of braſs, they made mony of leather: whence *Numa Pompilius* is ſaid to have given leather money in a dole unto the people. Touching their order obſerved in the Treaſury, we muſt underſtand that their care in providing againſt ſuddain dangers was ſuch, that they laid aſide the twentieth part of their receipts, which they *u* called *Aurum viceſimarium*, *Incenſimarium*, and *Cimiliarchium*, into an inner Chamber or more ſacred room, named in Latine *ærarium ſanctius*. *x* We may read alſo of a third Treaſury called *Ærarium militare*, wherein *Auguſtus* had appointed that the twentieth part of certain Legacies ſhould be laid up to defray charges in extraordinary Wars: where it lay ſo priviledged, that it was a capitall crime to uſe any of it, but in extream and deſperate neceſſity. Notwithſtanding, howſoever it was uſed as a Treaſure-Houſe *x* yet divers Authors teſtifie that the Acts of their Senate, the Books of Records, together with ſuch Books, as were for their immeaſurable bigneſs, called *Libri Elephantini*, wherein all the names of their Citizens were regiſtred, and alſo their Military Enſignes, were contained there. *y* And from thoſe Statute Books called *Tabulæ Publicæ*, this Treaſury was alſo called *Tabularium*, becauſe they were laid up there.

t Alex. Genedier. l. 4. c. 15.

u Alex. Gen. dier. l. 2. c. 2.

x Servius l. 2. Virg. Georg.

x Alex. Gen. dier. l. 2. c. 2.

y Plutarch in ſuis problemat. vid. Franc. Sylvium in Catilinar. 4.

CAP. 16.

De Campo Scelerato.

Campus Scleratus, the field of Execution *z* lying within the City, joyn'd to the Gate *Collina*. It was the place where the Veſtall Nuns, if they were deflowred, ſuffered Puniſhment after this manner. There *a* was made a Vault under the Earth, with a hole left open above, whereby one might goe downe; and within there was a little couch with a burning lamp, and a few Victualls whether the Defiled Votary was to be brought, through the

z Munſter. in ſua Coſmog.

a Plutarch. in Numa.

Market-place in a litter ſo cloſed up with thick leather, that her mournings might not be heard to the moving of pity. She being thus brought to the place of execution, was let down by a ladder into a hollow Cave, and the hole preſently ſtopped. And the reaſon why they ſuffered ſuch a kind of death, was, becauſe they thought it not fit that they ſhould be burnt with fire, which kept not the ſacred fire, with greater Sanctity: and it was thought unlawful to puniſh them by laying violent hands on them, becauſe they had in former time ſerved in ſo holy a function.

CAP. 17.

De Campo Martio.

b Roſin. anti. lib. 6. c. 11.

THe *b Campus Martius*, otherwiſe called *Tiberinus*, (becauſe it was near the river *Tiber*) was given unto the *Roman* people, by *Caja Tarratia*, a Veſtal Virgin; but *Tarquinius Superbus*, the laſt King of *Rome*, did take it from the people, converting it to his own private uſe, inſomuch that he ſowed Corn there; which, when he was depoſed, the *Romans* did caſt into the river *Tiber*, judging it unfit that any man ſhould reap any commodity from ſo holy a ground. In proceſſe of time the ſheaves of Corn being ſtopped in a ſhallow ford of the River, became firm ground, and was called, *The holy Iſland*, or *Æſculapius his Iſland*; and preſently after the expulſion of *Tarquinius*, this *Campus Martius* was reſtored unto its former uſe. Beſides the natural pleaſantneſſe of the place it ſelf, it was beautified with many ornaments brought out of the *Capitol* (the *Capitol* being too full) as likewiſe with divers images of well deſerving men. Hither did the younger ſort of *Romans* come to exerciſe Chivalry, namely, the Horſe-race, the foot-rate, wreſtling, fencing, caſting the bowl, the ſledg, the dart, uſing the ſling, the bow, vaulting, with ſuch like; and upon this occaſion it was dedicated unto *Mars*, and called by *Strabo*, *The*

The Romans Great School of Defence. *c.* The manner of vaulting, was in riding, to leap from one horſe-back upon another, their cuſtom being for their horſe-men in war, to lead a ſpare horſe in their hands, beſides that whereon they did ride, that when the one did ſweat, they leaped upon the others back; *à deſiliendo*, thoſe horſes were called *Equi deſultorii*: whence an unconſtant, wavering, and unſetled mind, which *Seneca* calleth *Volaticum ingenium*, others have called *Deſultorium ingenium*. In this field were men of beſt note burned when they died. Here were the Kings, and other Magiſtrates at firſt created. In this *d* field of *Mars*, alſo was a place at firſt railed, like a ſheep-pen, called therefore *Ovilia*, or *Septa*; but afterwards it was mounted with Marble-ſtone, beautified with ſtately Walkes and Galleries, and alſo with a Tribunal or Seat of Juſtice, within which precinct the people oftentimes aſſembled to give their ſuffrages toward the Election of Magiſtrates. The means of aſcending up unto theſe *Ovilia* was not by ſtaires, but by many bridges made; for that time, every pariſh in the aſſembly of pariſhes, and every Tribe, or Ward in the aſſembly of the Tribes, and every hundred in the aſſembly of Centuries, having his Bridge: whence this Proverb was occaſioned, *de ponte dejiciendus, id eſt*, he is to be barred from giving his voice. *e* Theſe bridges were not made over any River, but over the dry Land; whence men were ſaid to be caſt, *Non ut periclitarentur de vita, ſed ne ſuffragarentur in Comitiis.*

c Cœl. Rhod. l. 21. c. 29. 30.

d Servius in Bucol. ecl. 1.

e Ioan. Sixonius in Orat. pro S. Roſcio.

CAP. 18.

De Circo Maximo.

AMongſt other places where the *Romans* exhibited their Playes unto the People, the moſt remarkable was the great Cirque, or ſhew-place, called in Latine *Circus Maximus*. It was a large piece of ground lying near that part of the *Aventine* Mount, where *Diana's*

na's Temple ſtood. It was built by *Tarquinius Priſcus*, with diverſe Galleries round about it, from whence the Senators and Gentlemen of the City did behold the running with great Horſes at liſts, the fire-works, tumbling, the baiting and chaſing of wild beaſts, *&c.* In former time, all did ſtand on the ground, being ſheltred from the rain by the help of boards upheld with forkes, in manner of Houſe-pentices: and this cuſtome continued untill the aforeſaid *Tarquinius* erected thoſe Galleries, called *Fori*, making thirty diſtinctions of them, alotting every Ward or Company their ſeveral quarters, all the ſeats being able to contain one hundred fifty thouſand parties. *f* Under theſe places, Cels, or Vaults, where Women did proſtitute their bodies, and would buy ſtolne goods, and for this reaſon *Horas* calleth it *Fallacem circum*, *i. e.* the deceitfull ſhew-place. There was at the one end of the cirque certain barriers, *i. e.* places barr'd, or rail'd in, at which place the horſes began the race: and at the other end was the mark, whither the horſes ran, it was called in Latin *Meta*, and the barriers *carceres*, *à coercendo*. Whence we ſay *a carceribus ad metam*, *i. e.* from the beginning to the ending.

f Roſin. antiq. lib. 5. c. 4.

CAP. 19.

De Theatro.

THe *Theatre* *g* hath his Name from the Greek Verb, θεάομαι *id eſt*, to behold: becauſe the People flocked thither, to behold Plays and Shews exhibited to them. The cuſtome *h* firſt ſprang from the Shepherds, who leading a contemplative life, were wont to compoſe Dialogues in meeter, and at their leaſure to recite them under the trees preſſed down in form of an Arbor; whence this theatral term σκηνὴ hath been derived from σκια a ſhaddow, but afterward learned Poets compoſed Comedies, and Tragedies, which were publickly Acted in the City upon a Stage: and although at the firſt it was counted infamous to frequent them, yet

g Joach. camerar. in orat. pro L. Flacco: *h* Servius lib. 2. Virg. Georg.

yet afterwards the Senators themſelves, yea the Emperour, and all the Chief of *Rome* Aſſembled thither. *i* Neither for a long continuance were there any Seats built, but Commons and Nobles, promiſcuouſly one with another, all ſtood on the ground: inſomuch that thoſe which ſtood behind, raiſed up places with turfs of Earth, which gave the people occaſion to call the place between thoſe turfes, and the ſcaffold, *Cavea*, *id eſt*, a Cave or Den: yea the people that ſtood there, were ſo called from the place. Though the Theatre be now taken only for the Stage; yet then by it was underſtood the whole Room, where theſe Playes were Acted: and it had diverſe parts, ſome proper to the Actors, ſome to the Spectators. To the Actors, firſt belonged the *Proſcenium*, *id eſt*, the Houſe, whence the Players came: where they apparelled themſelves, though ſometimes it is taken for the Scaffold, or Stage it ſelf: Secondly, the *Pulpitum*, *id eſt*, the Stage or Scaffold upon which they Acted: and Thirdly, the *Scena*, that is, the partition which was commonly made of wood, not of hanging. Now that they might change their Scene, according to their pleaſure, they made it *k* *Verſatilem*, *id eſt*, ſo that with Engines, it might upon the ſuddain be turned round, and ſo bring the Pictures of the other ſide into outward appearance: or otherwiſe *Ductilem*, *id eſt*, ſo that by drawing aſide of ſome wainſcot ſhuttles (which before did hide the inward painting) a new Partition might ſeem to be put up: And I think, becauſe thoſe Shepheards did Act no more at a time, then one of our Scenes; Hence have we diſtinguiſhed our Playes into ſo many parts, which we call Scenes. The places which were proper to the Spectators were diſtinguiſhed according to their degree and rank; for the remoteſt benches were for the *Commons*, and called *Popularia*; the next for the *Knights* and *Gentlemen* of *Rome*, and called therefore *Equeſtria*; the others wherein the *Senators* did ſit, were commonly called *Orcheſtra*: this may be collect out of * *l* *Lipſius*, *m* *Cœl. Rhodiginus* ſaith, that the *Or-*

i Alex. Gendier. l. 5. c. 16.

k Servius. l. 3. Virg. Georg.

* *l* Lipſius de amphith. c. 14. *m* Cœl. Rhod. lib. 8. cap. 8.

Orcheſtra was that place joyning to the Stage, where *Chorus* ſpake to the people at the end of every act. Divers Authors are of *Cæl. Rhod.* his opinion, deriving the word *Orcheſtra*, from the Greek ὀρχεῖσθαι to dance; but it ſeemeth more probable to have been a peculiar place, alotted for the Senators: *Juv. Sat.* 3.

Æquales habitus illic ſimilemque videbis
Orcheſtram, & populum--id eſt, optimates & plebem.

The whole building made for entertainment of the Spectators, reſembled a triangle or wedge, ſharp towards the Stage, and broad behind, whence the whole was denoted by the name *Cuneus*; when *Cuneus* ſignified any particular place about the Theatre, then by it we are to underſtand that which formerly we call'd *Popularia*, the place for the meaner ſort of people; *n* whence when we would point out a baſe and ignoble perſon, *Inter cuneos reſidere dicitamus.* There was alſo another kind of ſcaffold, built quite round, made as it were of two Theatres joyn'd together, it was called *Amphitheatrum*, and differ'd from the Theatre, only as the full Moon doth from the half, or a compleat rundle from a ſemi-circle; it *o* reſembled an egg. Upon this kind of Scaffold did the Maſters of Defence play their Prizes; and wild beaſts were baited. *p In Amphitheatro gladiatorii ludi, & concluſarum ferarum venationes exhibebantur.* The *Amphitheatre* it ſelf, in the judgement of *Lipſius q* was termed *Cavea, ab interiore parte quæ concava erat*; and *Arena*, becauſe it was ſtrewed with gravel and ſand, that the blood of ſuch as were ſlain in the place, might not make the place too ſlippery for the Combatants. Hence cometh that phraſe, *In arenam deſcendere*, to go into the field; and the Combatants were thence called *Arenarii*. Here we muſt note, that howſoever the *Amphitheatre* was ſtrewed commonly with common and ordinary gravel, yet ſometimes in their extraordinary ſhews that gravel was covered, and as it were new coated, with the ſcrapings and duſt of ſome extraordinary ſtones, to add the greater luſtre unto it; thus much *r Pliny* intimateth, *Invenere & alium*

n Cæl. Rhod. lib. 8. cap. 8.

o Turneb. ad verſ. lib. 5. c. 5.

p Hoſp. de origeſt.

q Lipſ. de. Amphith. c. & 3.

r Plin. lib. 36.

alium usum ejus lapidis, in ramentis quoque Circum maximum sternendi, ut si in commendatione & caveor, &c. Again, sometimes the hollow places or dens under the *Amphitheatre*, in which the wild beasts were kept, and like wise men to be committed with wild beasts, out of which these were let loose by the lifting up of trap-doors to be hunted or baited upon the *Amphitheatre*, were call'd *Cavea*. For we must know, that the *Amphitheatre* was full of hollow passages for many reasons, as for the convenient keeping of wild beasts & beastiaries, so sometime for the better conveying of waters thither, by the means whereof ſ real Ships, and Sea-skirmishes were oftentimes exhibited upon the *Amphitheatre*.

ſ Sueton. in Domit an.

CAP. 20.

MOreover, for the better understanding of Classical Authors, it will not be impertinent to point at the general names by which the religious places were called, and to declare the proper acception of each name; the names being these, *Templum, Fanum, Delubrum, Ædes sacræ, Pulvinar, Sacrarium, Lucus, Scrobiculus, Ara, Altare, Fosus.*

De Templo.

This word *Templum* doth sometimes signifie those *a* spaces and regions in the ayr and earth, which the *Augures* did quarter out with their crooked staff at their South-saying: sometimes it doth signifie a Sepulchre or Grave, *c* because in old time men did superstitiously pray and worship at the Tombs and Monuments of their deceased friends, as if it had been in *Temples* or *Churches*; and in this sense may *Virgil* be understood,

a Rosin. ant. l. 2. c. 3.

c Lilius Gyrald. de diis gentil. syntag. 17.

d *Præterea fuit antiquo de marmore Templum*
Conjugis antiqui ——— ———

d l. 6. Æne. id. v. 457.

Most commonly it doth signifie a *Church*, or *Temple*; in which sense as often as it is used, it is *e* said, *à templando*, from beholding; because when we be in the Church, by lifting up our hearts by a divine contemplation, we do as it were behold the great Majesty of God.

e Frac. Sylvius in orat. pro L. Murzen.

De Fano

It is also called *Fanum à fando*, from speaking; not from the speaking of the Priest, but because the people do there speak unto God, and God again to the people. *f* Some are of opinion, that *Fanum* in property of speech, signifieth the *Churchyard*, or court before the Temple; *Templum* signifieth the Edifice or Church built.

f Turneb. adver. lib. 3. c. 9.

De Delubro.

Thirdly, a Church was called *delubrum*, *Synedochicus*, because it was the principle part of the Church; namely the place where the Idol-god stood; and it was called *delubrum* from *Deus*; *g* as we call the place where the candle is put, *candelabrum* from *candela*. As concerning the outward form of the Churches, some were uncovered, because they counted it an hainous matter to see those Gods confined under a roof, whose doing good consisted in being abroad; other-some covered; some round, some otherwise; but within they much resembled our great Churches. They had their *pronaon*, or *Church-porch*, whereabouts they were wont to have the image of the beast *Sphynx*, which was so famous for his obscure riddles; so that by this image was signified, that the oracles of the gods which were treated of within the Church, were dark and mystical. They had certain walks on each side of the *body of the Church*, which they called *porticus*; and in these places it was lawful for them to merchandize, make bargaines or confer of any worldly business; as likewise, in the *Basilica* or *Body* it self. But their *Quire*, call'd *Chorus*, was counted a more holy place, set apart only for divine service. The manner of hallowing it, was as followeth. *h* When the place where the Temple should be built, had been appoynted by the *Augures* (which appointing, or determining the place, they called *Effari templa, & sistere Fana*) then did the party, which formerly in time of need upon condition of help from the gods, had vowed a Temple, called together the *Aruspices*, which should

g Rosin. ant. l. 2. c. 2.

h Rosin. Ibid.

ſhould direct him in what form the Temple ſhould be built; which being known, certain ribbands, and fillets were drawn about the *area* or plot of ground, with flowers and garlands ſtrewed underneath, as it was probable, to diſtinguiſh the limits of this ground now to be hallowed. Then certain ſouldiers marched in with boughs in their hands, and after followed Veſtal Nuns, leading young boyes and maids in their hands, who ſprinkled the place with holy water. After this followed the *Prætor*, ſome *Pontifice* going before, who after the *area* had been purged by leading round about it a Sow, a Ram, and ſacrificed them, and their entrails being laid upon a turf, the *Prætor* offered up prayers unto the gods, that they would bleſs thoſe holy places, which good men intended to dedicate them. This being done, the *Prætor* touched certain ropes, wherewith a great ſtone being the firſt of the foundation, was tyed together with that, other cheif Magiſtrates, Prieſts, and all ſorts of people did help to pluck that ſtone, and let it down into its place, caſting in wedges of gold and ſilver, which had never been purified, or tryed in the fire. Theſe ceremonies being ended, the *Aruſpex* pronounced with a loud voice, ſaying, *Ne temeretur opus, ſaxo aurove in aliud deſtinato; id eſt*, Let not this work be unhallowed, by converting this ſtone, or gold into any other uſe.

De Æde ſacra.

Fourthly, a Church was called *Ædes Sacra*, an holy houſe, becauſe of the ſacrifices, prayers, and other holy exerciſes performed therein. Although (as *Gellius* hath long ſince obſerved) every holy houſe was not a Church. For the proper note of diſtinction between a Church and a religious houſe was this, that a Church, beſide that it was dedicated unto ſome God, it was alſo hallowed by the *Augures*, without which hallowing the edifice was not called a Church, but a religious houſe; of which ſort was the Veſtal Nunnery, and the common-

Treasury called *Ædes Saturni*. We may add hereunto this word *Pulvinar*, i which doth often signifie a Church; the reason being taken from a custom amongst the *Painims*, who were wont in their Churches to make certain beds, in the Honour of their Gods, and those beds they called, *Pulvinaria*, from *Pulvis*, because they were filled with dust, or chaff.

i Barthol. Latomus in Philippic. 4. am.

De Sacrario.

Sometime *k Sacrarium* signifieth a Temple, though properly it signifieth a Sextry or Vestry, *nempe l Sacrorum repositorium*.

k Cic. pro Milone.
l Franc. Sylvius in orat. pro L. Muræn.

De Lucis.

Near unto divers Temples, stood certain Groves dedicated to some of the Gods; they were called in Latine *Luci*, *à non Lucendo*, as divers say, by the figure *Antiphrasis*. But others are of a contrary opinion, giving it that name, because of the exceeding light it had in the night time, by reason of the sacrifices there burnt.

De Scrobiculo, Ara, & Altari.

The places upon which they sacrificed, either in their Religious Houses, or their Groves, were of three sorts: which we in English term Altars: but the *Romans* distinguished them by three several Nimes, *Scrobiculus*, *Ara*, & *Altare*.

De Scrobiculo.

m Scrobiculus was a furrow, or pit, containing an Altar in it, into which they powred down the blood of the beast slain, together with Milk, Honey, and Wine, when they sacrificed to an Infernal God.

m Alex. Genealog. l. 5. c. 16.

De Ara.

The second kind of Altar was called *Ara*, either *ab ardendo*, because their Sacrifices were burned upon it: or from their imprecations used of that time, which in Greek they called ἀραὶ. It was made four square, not very high from the ground, or as some say, close to the ground: and upon this they sacrificed unto the Terrestrial Gods, laying a turf of grass on the Altar: and this gave *Virgil* occasion

occasion to call them *n Aras gramineas, id est*, grassie altars. n Virg. Æn. 12.

De Altari.

The third sort was called *Altare*, either because it was exalted, and lifted up somewhat high from the ground; or because he that sacrificed (by reason the Altar was so high) was constrained to lift up his hands *in altum*, on high: *o* and upon this they sacrificed unto their cælestial Gods only. o Serv. in Bucolic. eclog. 5.

De Foco.

Focus is a general name, signifying any of these Altars. So called *á fovendo*: because as *Servius* hath observed, that is *focus, quicquid fovet ignem, sive ara sit, sive quicquid aliud in quo ignis fovetur*. But in strict propriety of speech, it is taken for that Altar on which they sacrificed to their domestick Gods, such as were their *Penates* or *Lares*. As it appeareth by *Plautus*, *p*.

p Aululr. act. 2. S. 5.

Hac imponentur in focum nostro Lari
Ut fortunatas faciat gnatæ nuptias.

Whence ariseth that Adage *Pro aris & focis certare* sounding as much as to fight for the defence of Religion, and ones private Estate; (or as our *English* Proverb is) for God and our Country; the Proverb being in its Original, part of the Oath that was administred unto the *Romane* Soldiers: and thus it is expounded by *q Turnebus*.

q Turreb. Adv. l. 10. c. 7.

LIB. I. SECT. 2.

The general divisions of the Romane people.

CAP. I.

De populo Romano, & ejus prima Divisione.

THus having premised a short Treatise, concerning the first Situation of *Rome*, and the most remarkable parts thereof, I purpose to proceed to the Inhabitants, which Antiquity hath stiled Citizens of *Rome*. And *Erasmus* rather describing a *Romane*, then defining him, saith, A *Romane* was grave in his Conversation, severe in his Judgment, constant in his purpose: Whence *Cicero* in his Epistles often useth this phrase, *More Romano*, for *ex animo, id est*, unfeignedly. *Sigonius* rendring the definition of a *Roman* Citizen, averreth, that no man is *Lege Optima, id est*, in full and compleat manner a Citizen of *Rome*, but he which hath his Habitation there, which is incorporated into a Tribe, and which is made capable of City preferments. By the first particle, those which they term *Municipes*; by the second, those which they call *Inquilini*; and by the third, those which they call *Libertini* are in a manner disfranchised. But whereas *Sigonius* saith, that they must have their Habitation at *Rome*, he would not be so understood, as if a *Romane* Citizen might not remove his Habi-

a Sig. de jur. Rom. l. 1. c. 1.

Habitation to any other Country: For, saith he, a *Roman* Citizen may be as long absent from *Rome*, and the fields belonging to *Rome*, as he pleases, so that he suffer himself to be Sessed and Taxed in common with others toward the Subsidie Payments, and denieth to be incorporate into another City. For *T. Pomponius* was a true Citizen of *Rome*, though he dwelt at *Athens*. The *Roman* Citizens being by these priviledges, as by a more proper and peculiar character distinguished from other people; and being planted in the City; according to the appointment of *Romulus* their King, it seemed good unto him, to divide them into *b* Tribes, not taking the note of distinction, only from the diverse places they then inhabited, as we read that *Servius* the sixth King of *Rome* did, making therefore four Tribes τοπικὰς, local namely *Suburbanam*, *Palatinam*, *Collatinam*, and *Esquilinam* (which number of local Tribes in process of time increased unto the number of 35) but dividing them according to their several nations, which at the first were *donati civitate, id est*, made free Denizens of *Rome*: and they being in number three. 1 The *Sabines*, which were named *Tatienses*, from their King *Tatius*. 2 The *Albanes*, called *Rhamnenses* from *Romulus*. 3 Other Nations promiscuously flocking out of other Countries to the *Roman Asylum* placed in a Grove, called in Latine *Lucus*, which gave *Romulus* occasion to name them *Lucres*) he made in all three Tribes φυλὰς or National. After that *Romulus* had thus divided the whole body of the *Romans* into three Tribes, he then sub-divided each Tribe into ten lesser numbers, which he called *Curiæ*, or Parishes: and then followed five other divisions in respect of their different degrees, and callings: of which in their several order.

b Sig. de jur. Rom. l. 1. c. 3.

CAP.

CAP. 2.

De prima Divisione Romanorum, in Senatores sive Patres, Patricios sive Patronos, & Plebeios sive Clientes.

THe first division of the *Romans* in respect of their degree and place, was this; The elder, wealthier, and gravest sort of *Romans*, were called sometimes *Patricii*, either because of their age or gravity; or because they had many children (for great priviledges were granted unto fathers of three children;) and sometimes *Patroni*, because they were as Patrons and Fathers in helping and assisting the causes of the common people seeking to them. The younger, poorer, and simpler sort were called, as they had relation to the *Patricii*, *Plebeii*, *id est*, the Commons; as they had relation to their *Patroni*, they were named *Clientes*, *id est*, Clients; between whom *c* there was such a mutual and reciprocal intercourse of Love and Duty, that as the *Patrons* were ready to protect their Clients, so the *Clients* were bound with all faithfulnesse to cleave unto their Patrons: and that not onely to Credit them with their Attendance in publique Assemblies, but to disburse out of their own purses towards the bestowing of their Daughters, the paying of Publique Mulcts, the giving of largesses in suing for Offices, *&c.* Neither was it Lawfull for either of them to inform, to depose, to give their voices, or to side with Adversaries one against another, without the Guilt of Treason; for which crime of Treason they were, *Diis infernis devoti*, cursed to Hell, and the Law gave liberty for any man to kill them. Out of the *Patricii* did *Romulus* elect a hundred counsellors to assist him in determining matters concerning the Common-weal: to these did *Romulus* after add another hundred, and *Tarquinius Priscus*, as divers Authors testifie, made them compleat three hundred, which they call *Patres*, or *Senatores*, and their Sons *Patricii*. But in process of time, the

c Laz. us de Repub. Rom. l. 12. c. 3.

the Commons alſo were eligible into a *Senators* place. Some ſay that *Tarquinius Priſcus* added the ſecond hundred to the *Senate* out of the Commons, who are called *Senatores minorum gentium, id eſt, Senators* of the lower houſe. *Brutus* added the laſt hundred, and made them 300. at what time they began to be called *Patres conſcripti*. And this accordeth with *Joannes Roſa* in his Epitome to the *Roman* Hiſtory, in his *Ch. de Regibus Romanis*: where he ſaith, that *Tarquinius Priſcus* did double the number of the *Senators*: And likewiſe *e Alexander Neop.* ſaith, that *Brutus* made them compleat 300.

d Marr. Phi-lericus in Cic. l. 1. ep. fam. 1.

e Alex. Gen. dier l. 2. c. 29.

CAP. 3.

De ſecunda diviſione Romanorum, in tres ordines: Senatorium, Equeſtrem, Popularem, *ſeu Plebeium.*

AFter that through *Tarquinius Superbus* his Tyranny, the very name of a King became odious to the *Romans*, not only the preſent King was exiled, but the Authority of a King ever afterward deteſted and perpetually abrogated; ſo that the office which was before Monarchical, then was divided between two, called *Conſuls*: Neither were they admitted for any longer ſpace than one year. At which time of change the *Romans* were divided into three orders or ranges. 1. Into *Senators*, of whom before. 2. Into *Gentlemen*, called of the *Romans*, *Ordo Equeſtris*: by which we do not underſtand thoſe 300. *Celres, id eſt*, Pentioners, called ſometimes *Equites*; for that was a place of ſervice, this is a title and token of gentility; who although they were inferior to the chief Senate, yet they were of great eſteem among the *Romans*; and although they might not wear the ſame Robe as the Senators did, namely the *Laticlavium*, or garment beſtudded with flouriſhings of purple ſilk in manner of broad nails heads; *f* yet they might wear the *Auguſticlavium*, a garment different from the former only in this, becauſe

f Roſin. ant. l. 1. c. 17.

the purple ſtuds wherewith it was purfled, was narrow, and not ſo large as the *Laticlavium*. They alſo at the time of their Election received from the *Cenſors* a houſe called by them *Equus publicus*, becauſe of the yearly allowance out of the common treaſury to keep him; it was alſo called *Equus militaris*, becauſe of their ſervice in war *g* (they having their horſes kept as well in peace as war.) They received alſo a Gold Ring, *h* whereby they were diſtinguiſhed from the populacy: for it was not lawful for any to wear a Gold Ring under the degree of a Senate, or a Gentleman. The eſtimation and value of a Senators eſtate *i* until *Auguſtus* his time, was *octingenta ſeſtertia*, that is, 6000. *l.* *k* Of a Gentlemans eſtate it was *quadringenta ſeſtertia*, id eſt, of our Engliſh mony 3000. *l.* The third order or degree in the *Roman* Common-wealth, was *Populus*, the Populacy, or *Commons*, which ſhould exerciſe trading, manure the ground, look unto the cattle, *&c.* Where by the way we muſt underſtand, that the baſer ſort of the *Romans* which did wander up and down, to and fro, not ſetling themſelves to any vocation, were not contained within this diviſion; for unto them there was no name vouchſafed, but according to the Poet, they were *ſine nomine turba*, or as *Livy* ſaith, *ignota capita*, men of no account, and therefore of no name.

g Liſp. de magnitud. Rom. l. 1. dial. 5.
h Alex. Gen. dier. l. 2. c. 29.
i Suet. in Auguſt.
k Plin. lib. 33. c. 22.

CAP. 4.

De tertia diviſione in Nobiles, Novos & Ignobiles.

THis diviſion was taken from the right or priviledge of having Images; for they were accounted Noblemen, which had the Images of their Predeceſſors: Thoſe which had their own Images only, were called *Novi*, that is, late quoined Nobles or upſtarts. *Saluſt* uſeth this word often in the diſgrace of *Tully*, calling him *Novum & reptitium civem*, one that lately crept into the City. The third ſort, called *Ignobiles*, were thoſe that had no Images, neither

neither of their Predecessors, nor of themselves. Before we proceed, we must understand, that it was not lawful for who would to have his own Image if he so desired; for none might be thus priviledged but those alone to whom the right of riding in a Curule chair belonged; and to these the right of Images was permitted, as well for the credit of their house, as to incite others to the like atchievments, when they would consider the divers ceremonies used unto these Images in an honourable remembrance of those whom they did represent. Whence it followeth, that *Jus nobilitatis* is nothing else but *Jus Imaginis*; Insomuch that this word *l Imago* doth sometimes signifie Nobility; and the right of having Images with them, was the same as the right of having Armes with us. *m* The superstitious conceit which the *Romans* had of these Images was such, that upon festival dayes, and all occasions of joy and mirth, those Images should be beautified and adorned with garlands and flowers; upon occasion of grief and mourning, they would take from them all their ornaments, making them in a manner partake of their mourning. Some they kept in their private Closets, *n* others they exposed to the publick view of passengers, placing them in the gates of their houses, together with the Swords, Targets, Helmets, Ship-beaks, and such other spoils as formerly they had taken from their enemies; *o* which it was not lawful for any, though they bought the house, so much as to deface. Yea they were so annexed to the freehold, that they passed alwayes in the conveyance of the house. The matter of which they were commonly made, was wax, as that of *Juvenal* doth sufficiently witness,

l Sig. de jur. Rom. l. 2. c. 22.

m Alex. Gen. dier. l. 5. c. 24.

n Bart. Lat. in Verrin 7.

o Plin. 25. 1.

p Tota licet veteres exornent undiq; coræ
Atria, nobilitas sola est atq; unica virtus.

p Juv. Sat. 8.

Again, we may not think, that they made in wax a compleat statue, or a full portraiture or the whole body, but only from the shoulders upward.

CAP. 5.

De quarta divisione Romanorum in Optimates *&* Populares.

THis fourth division of the *Romans* hath been occasioned through the faction and siding of the Citizens. Those (according to the description of *q Tully*) were *Optimates, id est*, the best Citizens, who desired their actions might be liked and approved by the better sort: Those *Populares, id est*, popular, who through desire of vain glory, would not consider so much what was most right, as what should be most pleasing unto the populacy: So that here by this word *Popular*, we understand not the commons as formerly we did, *r* but be he Senator, Gentleman, or inferior, if he do more desire that which shall be applauded by the major part, than that which shall be approved by the better part, him the *Romans* called *Popular, id est*, such a one, that preferreth the popular applause before the right.

q Cic. pro Sextio.

r Geor. Merula in orat. pro Ligario.

CAP. 6.

De quinta & ultima divisione Romanorum, in Libertos, Libertinos, *&* Ingenuos: *Item de* Manumissione.

THe difference of the freedoms in the City of *Rome*, hath given occasion of this division: for he or she that had served as an *Apprentice*, and afterward was manumised, was named *Libertus*, or *Liberta*. The son whose father and mother were once Apprentices, was called *Libertinus*; but that son whose father and mother were both *libertines*, or both free born, *s* yea whose mother only was free, was called *Ingenuus, id est*, freeborn. But after *Appius Cæcus* his Censorship, then began *Liberti* and *Libertini* to signifie one and the same degree of freedom; so that *Liberti* and *Libertini* were

s Justin. inst. l. 1. tit. de ingenuis, vid. Franc. Syl. in Cartilin. 4.

were taken for thoſe which ſerved for their freedom, and *Ingenui*, were taken for thoſe which were free-born, whether their Parents were *Liberti*, or *Libertini*. Here is occaſion given us to conſider the manner of their freedom, and ſuch ceremonies which belonged thereunto. The freedom of the city of *Rome* was three wayes obtained; 1. By *Birth*, both, or at leaſt one of the parents being free; and ſuch were called *Cives originarii*, 2. By *Gift* and *co-optation*, when the freedom was beſtowed on any ſtranger, or Nation, and they were termed *Civitate donati*: and ſo we read that *Ceſar* took in whole Nations into the freedom. Laſtly, by *Manumiſſion*, which was thus: when as the ſervant was preſented by his maſter before the *Conſul* or *Prætor*, the maſter laying his hand upon his ſervants head, uſed this form of words, *Hunc liberum eſſe volo*, and with that giving him a cut on the ear, he did *emittere ſervum è manu*: the *Prator* then laying a certain wand or rod called *Vindicta* upon the ſervants head, replied in this manner, *Dico eum liberum eſſe more Quiritum*. Then the *Lictor* or Sergeant taking the wand, did ſtrike therewith the ſervant on the head, and with his hand ſtruck him on the face, and gave him a puſh on the back, and after this he was regiſtred for a freeman. Moreover, the ſervant having his head ſhaven purpoſely at that time, received a Cap as a token of liberty; whence *ad pileum vocare aliquem*, is to ſet one at liberty, as likewiſe *Vindicta liberare*. [u] According to *Tertullian*, at this time of their manumiſſion the ſervants received from their maſters a white garment, a Gold ring, and a new name added unto their former. Whoſe authority if we admit, then the having of three names among the *Romans* was rather a ſign of *Freedom*, than of *Nobility*. And that of *Juvenal*,

Tanquam habeas tria nomina ———

Is not to be expounded, *as if you were a nobleman*, but, *as if you were a freeman*. Here we may alſo conſider the two ſeveral kinds of ſervants; the firſt were called *ſervi*, and

[t] P. Rathus in orat. pro C. Rabirio.

[u] Tert. de re ſur. carn.

and they could never attain to any freedom, without the consent of their master. *x* For those that were thus *servi*, were commonly captives, either bestowed as a reward upon this or that Souldier, or bought *sub corona*, or of other Citizens that had gotten them one of these two former wayes. The second were called properly *y nexi & addicti*, because though they were free, yet by reason of their debt, *addicebantur*, that is, they were delivered up unto their creditors by the *Prator* to work out the debt, so that after the payment thereof, either by money or work, they did recover their liberty; whence they were said *z. nomina sua liberare*, when they paid the debt: as on the contrary they were said *nomina facere* when they became in debt. And their creditors when they sued for the payment, were said *nomina exigere: nomen* in these and the like places signifying as much as *debitum* a debt, *a* because their creditors did use to write down their debtors names. *b* The manner of suing for their debts was as it followeth; The debt being confessed, thirty dayes were allowed the debtor for the payment of the money (those dayes of respite they called *dies justos*, *velut justitium quoddam*, id est, *juris inter eos interstitionem & cessationem.*) The money not paid, the debtor was delivered up as a servant to his creditor, yea he was sometimes cast into prison; and unless the creditor were in the mean time compounded with, he remained threescore dayes in prison, and three Market dayes one after the other being brought before the Judge, the debt was solemnly proclaimed, and upon the third Market day he was either sold to forreigners for a slave, or else was punished with death, each creditor being suffered, if he would, to cut a peice of his dead body instead of payment.

x Dion. Halicar. l. 4.

y Sig. de jur. Rom. l. 1. c. 31.

z Mic. Toxita. in orat. pro P. Quintio.

a Fr. Silv. in ep. virorum. illust. l. 1. ep. 6.

b Vid. Cœl. Rhod. l. 12. c. 20. It. A. Gel. l. 2. c. 21.

LIB.

LIB. II. SECT. I.

The General Divisions of the ROMAN GODS.

CAP. I.

De Diis.

THough Satan had much blinded the hearts of men in old time, yet was not the darkneſs of their underſtanding ſo great, but that they did eaſily perceive and therefore willingly acknowledge, that there was ſome ſupream Governour, ſome firſt Mover, as *Ariſtotle* ſaith, ſome firſt Original of all goodneſs, as *Plato* teacheth. So that if any made this queſtion, Whether there was any God or no? he ſhould be urged to confeſs the truth of that, rather *Argumento Baculino, quàm Ariſtotelico*, rather with a good cudgel, than with any long diſpute. But as they were moſt certain, that there was a God, ſo were they again very blind in diſcerning the true God: and hence hath been invented ſuch a tedious Catalogue of Gods, that (as *Varro* averreth) their number hath exceeded thirty thouſand, and proved almoſt numberleſs. Wherefore I ſhall obmit to make any diſtinct Treatiſe of the Gods, intending *obiter* and by the way to ſpeak of them, which either

either had Priests, or Sacrifices instituted for them. Only I purpose to shew what is understood by those general distinctions of the Gods which divers Authors have used. *Tul. lib. 2. de legibus*, reduceth all unto three heads, Gods celestial, which *Varro* calleth select, and others have styled Gods *majorum gentium*, *i. e.* of the greater nations, because their power was greater than the others. *a Alexander Neopolitanus* saith that twelve of these were the *Penates* which *Æneas* did take forth with him at the destruction of *Troy*. *Ovid* calleth them *Deos Nobiles*, noble Gods: others call them, *Deos consentes*, *quasi consentientes*, because *Jupiter* would do nothing without the consent of all. *Ennius* hath delivered them in this distich;

Juno Vesta, Minerva, Ceres, Diana, Venus, Mars,
Mercurius, Jovis, Neptunus, Vulcanus, Apollo.

a Alex. Gen. dier. l. 6. c. 6.

b Serv. in lib. Georgic.

The second sort of Gods were called *Semidei*, *id est*, Demigods; also *Indigites*, *id est*, Gods adopted or canonised: men deified. For as the select Gods had possession of heaven by their own right: so these Gods canonized, had it no otherwise than by right of donation, being therefore translated into heaven, because they lived as Gods upon earth; but because their merit was inferior, and could not parallel the deserts of the Gods select, therefore were they called gods of inferiour note. *c Servius* would have these called *Divi*; observing this difference between *Dii* and *Divi*, that *Dii* should signifie those which had been gods perpetually, but *Divi* should signifie men made gods, though commonly they are used one for another. Whence they called all their Emperours *Divi*, because for their deserts they thought them worthy to be gods. Now the *d* manner how a man became deified was this: the party to be canonized being dead, a pile of wood was made in form of a great Tent, or Tabernacle, with three other lesser Tabernacles, one on the top of another, the lowermost having in it dry combustible matter, but on the outside adorned richly with Gold, Ivory, and painted Tables; hither the dead corps

c In Æneid. lib. 5.

d Rosin. ant. l. 3. c. 18. vid. Hospin. de orig. Christ. F. p. 21. vid. exemplum hujus consecrationis in Sveeri sepultur. Herod. 4. p. 29.

corps was to be carryed with great solemnities; the Senate, the gentlemen, and all the chief Magistrates going before, with hymnes and songs, and all kind of honour, which was to be performed even to the Gods themselves. He being in this manner brought, and laid within the second tabernacle, the fire was kindled, by him who was to succeed in the Empire, for I find none canonized but onely Emperours at their decease: forthwith at the kindling of the fire, a living Eagle was let fly from the top of the tabernacle which was supposed to transport the soul of the dead body into heaven, insomuch that ever after he was canonized amongst the Gods, and worshipped as a God. And because they were thus turned into Gods, some have called them *Deos animales, quoniam animæ humanæ verterentur in Deos.* This *e* canonization was by the Greeks tearmed ἀποθέωσις, by the Latines *consecratio.* The third sort were those morral vertues, by which as by a ladder men climbed into heaven: and therefore did men stile them Gods, because by their meanes men became deified. Late writers perceiving that all the number of the Gods could not be reduced unto these three heads, have added a fourth sort which they *f* call *Semones, quasi semi homines,* because ancient writers, as *Festus* hath observed, called men *hemones*, not *homines*, in which point I shall willingly condescend unto him, but I shall leave to the judgement of others, to determine how justly he hath restrained the Gods *minorum gentium*, of the lesser Nations, onely unto this last *classis*: whereas my opinion is, that the demygods, the moral vertues which have been styled Gods, and these *Semones*, may all of them be called Gods of the lesser Nations standing in opposition with the Gods select, which are called Gods of the greater Nations. But that we may understand what is meant by these *Semones*, we must remember that by them are signified unto us not those Gods, which doe appertain to man himself, but to the necessaries of mans living, his victuals, his cloathing,

e Ser. in Æn. lib. 3.

f. Rosin. antiq. lib. 2 c. 19.

and the like: not to the being of a man, but to the well-being of him, of which ſort is *Salus*, *Fortuna*, with others. We read likewiſe of other names given in common to divers Gods, not as oppoſite members of a diviſion, but as notes of diſtinction drawn from the diverſity of help, which they ſeverally did afford unto man. In this reſpect ſome were called *dii patrii*, or *tutelares*, ſuch as had undertaken the protection of any City or Town, which opinion had ſometimes been entertained by our Engliſhmen, and thence have riſen theſe and the like ſpeeches, St. *George* for *England*, St. *Dennis* for *France*, St. *Patrick* for *Ireland*, &c. And the Romans being fully perſwaded of the truth thereof, whenſoever they went about to beſiege any Town, by certain Enchantments, or ſpells they would firſt call out theſe Tutelar Gods; becauſe they deemed it a matter impoſſible to captivate the City, as long as theſe Gods were within; or at leaſt they thought it a crime unexpiable to take the Gods as priſoners. And leaſt other Nations might uſe the ſame means in beſieging *Rome*, therefore, *g* as divers Authors have thought, the true Name of the Roman City was never known, leaſt thereby the Name of their Tutelar God might be deſcryed. Others, namely the *Tyrians*, have tyed faſt their God *Hercules* with a golden chain, thereby the more to ſecure themſelves of his reſidence among them. *h* Others have been called *Dii communes*, namely *Mars Bellona*, and *Victoria*, becauſe in time of War they are not bound to either ſide: but ſometimes they help one ſide, and ſometimes the other. And as they ſuppoſed ſome Gods to have the protection of whole Countries, ſo did they believe that others had the charge of particular men; and that as ſoon as any man was born, two ſpirits did preſently accompany him inviſibly, the one termed the *bonus Genius*, or good Angel. Perſwading him to that which ſhould be good: the other called the *malus Genius*, or evil Angel, tempting to that which ſhould be hurtfull, inſomuch that they thought all the actions

g Sylvius in epiſt. virorum illuſtrium.

h Alex. Gen. dier. l. 6. c. 4.

actions of men to be guided by these Angels called *Genii*; so that if any misfortune befell a man, they would say that the matter was enterprised *Diis iratis, id est*, our *Genius* being displeased with us. *Virgil* called these bad Angels *Manes*, as it appeareth by that, *Quisq; suos patitur manes, id est*, Every man hath his evil Angel, *id est*, some misfortune. These *Genii* were thought to be a middle essence between men and Gods: They are therefore called *Genii*, because they have the tuition of us so soon as we are *Geniti, i. e.* born, it is most certain that old authors used *Geno* for *Gigno*, whence *i Tully* saith, *si mihi filius genitur*, and *k Varro Antequam genat filiquas*, although every place had also his *Genius*, as hereafter shall appear. This opinion was the more confirmed by a vision which appeared unto *l Brutus* in *Asia* near unto the time of his death, for *Brutus* watching upon a certain night in his Pavilion, the candle being near spent, saw a fierce tragical person appear unto him, somewhat bigger then a man, and he presently being of an undaunted spirit, demanded whether he were a God or a man? To whom the vision answered, *Brutus*, I am thy evil *Genius*, which haunteth thee, thou shall see me at the City *Philippi* again; and the same vision appeared unto him, as he was fighting at *Philippi*: which was the last fight that ever he fought. And because *Juno* was wont to be invocated in the time of Child-birth, therefore many have thought that every man hath not his two Angels, but one Angel, and *Juno* to observe him, but it is agreed upon by best authors, that as the angels or spirits which did attend men were termed *Genii*: so those which guarded women were termed *Junones*. This *Genius*, as often as he is understood for the good or evil *Angell*, which hath charge of a mans body, is painted in form of a man as we read did appear to *Brutus*; though some time he is painted as a young boy, sometimes as on old decrepit man, *m* but alwayes with a crown of plane-tree, which therefore was called *genialis arbor*, in the right hand he held a platter over an alter

i Cic. lib. 2. de orat.

k Varro Rei. Rust. li. 1. c. 13

l Plut. in Brut.

m Rosin. ant. lib. 3. cap. 64

garnished with flowers: in the left he held a scourge hanging down. The sacrifice that was performed unto the *Genius* was wine, and flowers: whereupon (as if by wine and fragrant odors, were signified all kind of pleasures) certain proverbial speeches have been occasioned: as when we see a man given much to his pleasure, and dainty feeding, we say he doth *indulgere genio*, *i. e.* pamper or make much of his *Genius*: on the contrary he that is abstemious and debarreth himself of his pleasure, and dainty feeding, is said *defraudare Genium*, to defraud his *Genius*: and *genialis* signifieth jocund or pleasant. *n* It was also the custom after meales to have a cup pass round the table, much like unto our *poculum charitatis*, and it was called *poculum boni Genii*. *o* The *Grecians* had a like custom, whence that cup was called by them, κρασις ἀγαθοῦ δαιμονος. But the reason, why they would not sacrifice unto their *Genius* by killing some host, as they did to their other Gods, was, because they judged it unfit to deprive any creature of his life upon that day, when they first began their life (for this sacrifice was performed yearly by every one upon his birth day) *Horace* notwithstanding doth more then intimate the killing of a young pig in that sacrifice.

n Vid Erasm. adag.

o Cel. Rhod. lib. 28. cap 6.

——— eras Genium meró
Placabis, & porco bimestri. Hor. lib. 3 Od. 17.

The other *Genius* which is supposed to have chief power over high ways and places, being therefore called *Genius loci*, was pictured in form of a Snake, in which form *Virgil* feigned him to have appeared to *Æneas*, when he performed the funeral rites due unto his Father *Anchises*, *Æneid. l. 5.*

——— Adytis cum lubricus anguis ab imis
Septem ingens gyros, septena volumnia traxit.

Sat. 1.

And *Persius*.

Pinge duos angues, pueri, sacer est locus, extra,
Melite, id est, duos Genios,

Another sort of gods was supposed to have the keeping of

of mens houſes: *p* which they painted in the form of a Dog, becauſe thoſe to whom the charge of houſes is committed ought to reſemble Dogs, that is, to ſeem fierce and angry towards ſtrangers, but gentle and kinde to thoſe of the houſhold. Other properties wherein theſe *Lares* doe reſemble Dogs are recited by *Ovid. Faſt.* 5.

p Franc. Sylv. in orat. pro. Sext. Roſc. Am.

Servat uter q̃ domum, domino quo q̃ ſtius uter q̃ eſt,
Compita grata Deo, compita grata cani:
Exagitant & lar, & turba Diania fures,
Pervigilant q̃ Lares, pervigilant q̃ canes.

They were named *Lares*; and becauſe of the charge, they had over mens houſes, this word *Lar* is ſundry times taken for an houſe it ſelf, as *parvo ſub lare*, *Horat.* In a little Cottage, *homo incertilaris*, *id eſt*, a man that hath no houſe to dwell in. *Sen. in Med.* And the cuſtome in ſacrificing unto them, was to eat up all whatſoever was left at the offering, for they thought it an heinous matter to ſend any of that ſacrifice abroad, either among their friends, or the poor: and thereupon when we ſee a glutton leave nothing in the platter, not ſo much as the courteſie-morſel, we ſay *Lari ſacrificat*, *id eſt*, he ſacrificeth to his houſhold God.

LIB.

garnished with flowers: in the left he held a scourge hanging down. The sacrifice that was performed unto the *Genius* was wine, and flowers: whereupon (as if by wine and fragrant odors, were signified all kind of pleasures) certain proverbial speeches have been occasioned: as when we see a man given much to his pleasure, and dainty feeding, we say he doth *indulgere genio*, *i. e.* pamper or make much of his *Genius*: on the contrary he that is abstemious and debarreth himself of his pleasure, and dainty feeding, is said *defraudare Genium*, to defraud his *Genius*: and *genialis* signifieth jocund or pleasant. *n* It was also the custom after meales to have a cup pass round the table, much like unto our *poculum charitatis*, and it was called *poculum boni Genii*. *o* The *Grecians* had a like custom, whence that cup was called by them, κρασις ἀγαθοῦ δαιμονος. But the reason, why they would not sacrifice unto their *Genius* by killing some host, as they did to their other Gods, was, because they judged it unfit to deprive any creature of his life upon that day, when they first began their life (for this sacrifice was performed yearly by every one upon his birth day). *Horace* notwithstanding doth more then intimate the killing of a young pig in that sacrifice.

n Vid Erasm. adag.

o Cel. Rhod. lib. 28. cap 6.

——— cras Genium meró
Placabis, & porco bimestri. Hor. lib. 3 Od. 17.

The other *Genius* which is supposed to have chief power over high ways and places, being therefore called *Genius loci*, was pictured in form of a Snake, in which form *Virgil* feigned him to have appeared to *Æneas*, when he performed the funeral rites due unto his Father *Anchises*, *Æneid. l. 5*

——— Adytis cum lubricus anguis ab imis
Septem ingens gyros, septena volumnia traxit.

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And *Persius*.

Pinge duos angues, pueri, sacer est locus, extra,
Meiite, id est, duos Genios,

Another sort of gods was supposed to have the keeping of

of mens houses: *p* which they painted in the form of a Dog, because those to whom the charge of houses is committed ought to resemble Dogs, that is, to seem fierce and angry towards strangers, but gentle and kinde to those of the houshold. Other properties wherein these *Lares* doe resemble Dogs are recited by *Ovid. Fast.* 5.

p Franc. Sylv. in otat. pro. Sext. Rose. Am.

Servat uter q3 domum, domino quo q3 fidus uter q3 est,
Compita grata Deo, compita grata cani:
Exagitant & lar, & turba Diana fures,
Pervigilant q3 Lares, pervigilant q3 canes.

They were named *Lares*; and because of the charge, they had over mens houses, this word *Lar* is sundry times taken for an house it self, as *parvo sub lare*, *Horat.* In a little Cottage, *homo incerti laris, id est*, a man that hath no house to dwell in. *Sen. in Med.* And the custome in sacrificing unto them, was to eat up all whatsoever was left at the offering, for they thought it an heinous matter to send any of that sacrifice abroad, either among their friends, or the poor: and thereupon when we see a glutton leave nothing in the platter, not so much as the courtesie-morsel, we say *Lari sacrificat, id est*, he sacrificeth to his houshold God.

LIB.

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LIB.

LIB. II. SECT. II.

Of the Roman Prieſts with ſome particular Gods.

Aunus the ancienteſt of all the Kings in *Italy* was the firſt, that brought any forme of Religion into *Italy*. He conſecrated groves, gave names unto Cities, erected Temples, ordained ſacrifices, &c. From whom the Churches, as ſome ſay, were named *Fana*, But after *Faunus*, *Evander* coming out of *Arcadia*, and afterwards being King of *Latium*, he inſtituted, and appointed many other Ceremonies, which before were unknown to the Latines. After him *Æneas* coming from *Troy*, taught many of the *Trojan* Ceremonies: by whoſe examples *Romulus* and *Numa* were incited to adde many other kinds of holy rits, and ſo at length reduced their whole Religion into a certain order, eſpecially *Numa*, who that he might gaine the more credit and authority to his new invented ſuperſtitions, feigned that he had conference about them every night with the goddeſſe *Egeria*. My intent therefore is, to ſpeak firſt of the God, in whoſe honour theſe holy rites were performed, and then to deſcend unto the Prieſts, which were to performe them, ſhewing with all the Ceremonies they uſed in the performance.

Lact. de fall. rel. l. 1. c. 22.

CHAP.

CHAP. 1.

De Pane Lyceo, ſive Juno: de Lupercis & Lupercalibus.

PAn was ſuppoſed to be the God of the ſheep-heards, and is *a* thus deſcribed: he is pictured naked, having hornes in likeneſs of the Sun-beames, a long beard, his face red like the clear ayre, in his breaſt the ſtar *Nebris*, the nether part of his body rough, his feet like a Goat: in one hand he holdeth a pipe, in the other a ſheep-heards crook, and alwayes is imagined to laugh. *b* He was worſhipped firſt in *Arcadia*, and there called the God *Pan Lycæus*, but afterward he was had in great eſteeme at *Rome* *c* and in the honour of him certain ſacrifices, and games called *Lupercalia* were ſolemnized by the *Romanes*, *d* There he took the name *Inuus*, or as ſome ſay *Junus*. Concerning the time, when theſe ſacrifices were to be performed; it was upon the *e* unfortunate dayes of the moneth *February*, which hath his name *à februando*, from purging: whence the feaſt or game is as a purification; though the Latine word ſignifieth as much as a feaſt of wolves, in a memorial that *Romulus* and *Remus* were nurſed by a ſhee-wolfe. This ſeemeth very probable, becauſe the Prieſts, which were called *Luperci* began their courſe at the foot of the mount *Palatine*, called by the *Romans Lupercal*, *id eſt*, the place, where the wolf nurſed *f Romulus*. The Ceremonies were theſe: the hoaſt (being two Goats) was to be ſlain; and two Noble mens Sons were to be preſent, whoſe foreheads being blooded with the knives of them that had ſlain the Goats, by and by were to be dryed up with wool dipped in milk. Then the young Boyes muſt laugh immediately after their foreheads were dry. That done they cut the goats skins, and made thongs of them, which they took in their hands, and ran with them all about the City ſtark-naked (ſaving they

a Servius in Virg. Ecl. 2.

b Feneſt. de ſacred. cap. 1.

c Feneſt. lib.
d Pomponius Lætus de Sacred cap de Luper.
e Plutarch. in Romulo.

f Plutarch. in Romulo.

they had a cloath before their privities) and so they strook with those thongs all they met in the way. The young wives did never shun them at all, but were well content to be stricken with them; believing it helped them to be with childe, and also to be easily delivered. Moreover it is to be noted, that a Dog was sacrificed at this time, because there is a natural antipathy, or contrariety of nature, between the Dog and the Wolf: whereby *Romulus* thought to testifie his gratefulness unto the Wolf for her paines in nourishing him. The reason why the Priests ran up and down the streets naked, was, because that *Pan* the God of this sacrifice was painted naked. As the feast, so also the place from whence they came, and likewise the Priests had their names *à Lupa*, which signifieth a Wolf. Some Authors have observed three sorts of the *Luperci*, some called *Fabiani*, some *Quintiliani*, from *Fabius* and *Quintilius* their governours: the third sort, which *g Rosinus* affirmeth to have been added in the honour of *Julius Cæsar*, I cannot find according to his quotation in *Suetonius*. But thus much *Suetonius* saith in *h* another place, namely that *Augustus Cæsar*, when he was chief Pontifie did restore these games again, being formerly abolished.

g Rosin. ant. l. 3. c. 2.

h Sueton. in August.

CAP. 2.

De Cerere, & sacris ejus.

CEres otherwise called *Eleusina* was honoured first among the *Græcians*, afterward among the *Romans*, as a Goddess, which first taught men the skill of husbandry.

Prima Ceres ferro mortales vertere terram
Instituit. Virg. Georg.

Whence she is sometimes *metonymicè's* taken for corn, as *Credenda Ceres arvis. Ovid.* It is seed time. She is called *Ceres* [illegible] *a gerendis frugibus*, from bearing fruit: because as some say, by *Ceres* is understood sometimes

i Cic. lib. 3. de nat. Deor.

sometimes the earth it self; whence also Δημήτηρ, being the Greek name of *Ceres* is said *quasi* γῆ μήτηρ, *i. e.* the earth, which is the common mother of us all. *k* She is painted in the habit of a Matron wearing a Garland of Corn: sometime sorrowful, with a lamp in her hand, as if she were seeking out her daughter *Proserpina* carried by *Pluto* into Hell: and sometime with a handful of Corn or Poppy-seed. Upon the fifth of the Kalends of *April* the Romans were wont to perform sacrifices unto her, which they called *sacra Græca, i. e.* the Grecian sacrifices: as likewise they termed the chief woman which did perform them, *sacerdotem Græcam, i. e.* the Greek Ministress, because they were translated into *Rome* out of *Greece* by *Evander*. The time of their solemnities was at the dawning of the day, and the Priests, which were onely women, ran up and down with lamps in their hands in manner of mad women; into whose Temple none that was guilty of any fault committed, might enter: whose mysteries were to be buried in silence, and by no means to be blabbed abroad. And as it is to be supposed, that was the reason why all wine was forbad in this sacrifice. So that hence *l* we say *Cereri sacrificat*, he sacrifices to *Ceres*, when he makes a feast without wine.

k Rosin. ant. l. 2. c. 11.

l Plautus in Cultlaria.

CAP. 3.

De Potitiis, & Pinariis, Hercules sacerdotibus.

Hercules had an Altar erected in the memorial of him near unto *Tiber* by *Evander*, upon occasion of the Herdsmens complaint brought unto *Evander* of him, whom they accused to have slain their chief Herdsman *Cacus*, the History being *m* thus, *Hercules* after his conquest over *Geryon*, brought away with him certain goodly Oxen, and as well to rest himself, as to pasture his Oxen, he laid him down to sleep in a green field near the River *Tiber*: In the mean while a certain Herdsman called *Cacus* happened to come that way, and perceiving

m Serv. Æn. l. 8.

Hercules to be in a ſound ſleep, he ſtole away two of his Oxen, which he hid in a Cave or hollow Rock, pulling them in by the tail backward, thinking that *Hercules* when he ſhould look his Oxen, and ſee the print of their footſteps, would eaſily believe that his Oxen had rather gone out from the Rock than into it, as indeed he did for a time believe: but afterwards by the bellowing of the Oxen within, anſwering their fellows without, *Hercules* entred the Rock, and finding the thief *Cacus* there with his Oxen, he killed him; by reaſon of which murther he was brought before *Evander*: and after a while known to be the *Hercules*, of whom the Propheteſs *Garmenta* had foretold unto *Evander*, that he ſhould be a God: whereupon *Evander* preſently ſaluted him by the name of *Hercules* the Son of *Jupiter*, and in honour of him cauſed an Altar to be built there in that place: upon which yearly was to be offered up an Heifer which had never born yoke; and that this Sacrifice might be had in the more eſteem, two Noblemen well ſtricken in years, and of good repute among the Romans, one of them being called *Potitius*, and the other *Pinarius*, were appointed as the Prieſts to perform theſe Sacrifices; from whom ever after *Hercules* his Prieſts were called *Potitii*, and *Pinarii*. Where by the way we muſt obſerve that *Pinarius* was not the ſirname of this Nobleman, but a name added unto him, intimating his and his ſucceſſors puniſhment, for not coming ſoon enough according to the time appinted by *Hercules*. For as *u* divers writers teſtifie, the entrals of the beaſt were almoſt eaten up by the family of *Potitius*, before *Pinarius* and his family came, and in puniſhment of their negligence *Hercules* enjoyned the *Pinarii* never after to eat of the entrals, giving them this name *Pinarii* at that time, from the Greek word πεινη, ſignifieth hunger.

u Ser. Æn. 8.

CHAP.

CAP. 4.
De Fratribus Arvalibus.

THis Colledge or Company of Roman Priests may be Englished the *Arval fraternity*: the number of them being twelve, eleven of them natural brothers, sons to *Acca Laurentia*, *Romulus* his Foster-mother; *o* for which respect *Romulus* yielded himself her adopted son, instituting this Order in the honour of *Ceres* and *Bacchus*, for the plenty of Wine and Corn, unto whom they did offer up certain sacrifices called *Ambarvales hostiæ, quod antequam matterentur ter circum arva ducebantur*, according to that of *Virg. Georg. Terq; novas circum felix eat hostia fruges*, that they being therewith appeased, might the willinger cause the earth to fructifie, and added himself to the former eleven, as the twelfth Priest, or brother to help in the performance of this publick sacrifice. Moreover, beside the performance of this sacrifice, these twelve were appointed *Arbitrators*, or Judges to decide controversies concerning Land-marks, and bounds of the field, from whence they took their name *fratres arvales*. Their sacerdotal ornament was a garland of Wheat bound up with a white ribband, this being, as *p Pliny* writeth, the first Crown or Garland amongst the Romans.

o Fenest. de Sacerd. c. 3.

Hospin. de orig. Monach. c. 10.

p Plin. 17. c. 2.

CAP. 5.
De Sexaginta Curionibus.

AFter that *Romulus* had divided the whole body of the Romans into three Tribes, or Wards, and subdivided those three Wards into thirty Parishes, called *Curiæ*, he ordained out of each *Curia* two Parish-priests or Curates called *Curiones*, or *Flamines Curiales*; which were publickly to offer up sacrifice in the behalf of the people. Neither was every one equally capable of this

q Dion. Hal. l. 2. honour of Prieſthood, *q* but he was to be at the leaſt fifty years old, of a life unſpotted, and a body unmaimed. And over all theſe there was one which had chief rule, and therefore was called *Curio maximus*, the Biſhop or chief

r Dion. ibid. Prelate: and theſe ſacrifices were called *Curionia*. *r* Their ſacrifice being ended, each Pariſh had a feaſt in a common Hall built for that purpoſe: it was called *Domus Curialis*, and ſometimes *Curia*.

CAP. 6.

De Auguribus, & eorum Collegio.

AMongſt other kinds of fore-tellers, we read of three principally uſed in former time, namely, *Aruſpices*, *Auſpices*, and *Augures*: all which we Engliſh *Southſayers*, though the Latine words do import a main difference, worth our obſervation; all are alluded unto by *Ovid*.

Ovid. triſt. l. 1. Eleg. 2.

Hoc mihi non ovium fibræ tonitruſve ſiniſtri,
Linguave ſervatæ pennave dixit avis.

The *Aruſpices* did divine or foretel things to come, by beholding the entrals of beaſts ſacrificed; whence they had their name, *ab aras inſpiciendo*, from beholding the Altars. The *Auſpices* did foretel things by beholding the flight of birds: ſo that *Auſpices* are ſaid *quaſi aviſpices*, *ab aves aſpiciendo*. The *Augures* did divine from hearing the chatting or the crowing of birds; whence they are called *Augures ab avium garritu*, *from* the chirping and chatting of birds. Theſe two laſt kinds of ſoothſaying have occaſioned theſe and the like phraſes, *bonis avibus*, or *auſpiciis* with good luck, *malis avibus*, *i. e.* with ill luck; and becauſe they would begin

s Fr. Sylv. in orat. pro Cluentio. *s* nothing *in auſpicio*, *i. e.* without the counſel of the *Augures*, hence *Auſpicari rem* hath been tranſlated, to begin a matter. The Colledge of the *Augures* at *Rome*, was

t Pomp. Lætus cap. de Augur. firſt appointed by *t Romulus* himſelf, being very expert in ſoothſaying, there being at the firſt but three, namely one of each Tribe; (The word *Augur* being not taken in his own

own proper sense and signification above mentioned: but generally, by the trope *Synechdoche*, signifying all kinds and sorts of divining whatsoever, whether it were by observing the entrals of beasts, the flying, screeching, and chatting of birds, or thundring or lightning in the Heaven, or marking the rebounding of crums cast unto birds, which kind of divining was called *Tripudium*.) *x Servius Tullius* the sixth Roman King, when he divided *Rome* into four local Tribes, *id est*, Regions, or quarters, then did he add the fourth *Augure*, all of them being elected out of the *Patricii*, or the Nobility of *Rome*. *y* In process of time *Quintus*, and *Cænus Egulinus* being chosen *Tribuni plebis*, *i.e.* protectors of the Commons, obtained, that five other *Augures* should be chosen out of the commonalty, and added unto the former four: at which time the Senate decreed, that the Colledge of *Augures* should never exceed the number of nine. *z* Notwithstanding *Silla* being *Dictator*, added six more, insomuch that their Colledge increased to the number of 15. the eldest of which was called *a Magister Collegii*, the Master, or *Rector* of the Colledge. The *Augures* excelled other Priests, in *b* this respect, because if any of them had been convinced of any hainous crime, he did not lose his office, neither was any other subrogated into his room, although the Roman custome was, that if any other Priest had committed any notorious offence, he should presently be discharged of his office, and another chosen in his place. *c* The manner how the *Augur* did observe was this: He sate upon a Castle, or a Tower, the air being clear and fair without clouds or rain, holding a crooked staff (called in Latine *Lituus*) in his hand, where sitting in his soothsaying Robe called *Læna*, and in Greek χλαῖνα παρὰ τὸ χλιάνειν *à calefaciendo*, from heating, because it was well lined within, being guarded on the outside with purple and crimson guards; having his head covered, and his face turned toward the cast, so that his back was West-ward, his right-side South-ward, and his left North-ward. Being thus placed,

x Rosin. ant. l.3.c.8.

y Rosin. ibid.

z Rosin. ibid.

a Alex. Gendier. l.5.c.19.

b Alex. ibid.

c Pomp. Lætus de Aug.

placed, he quartered out with his crooked ſtaff the heaven into certain *templa*, *id eſt*, Regions or places, obſerving in what region the birds did appear: then killing his ſacrifice, and offering up certain prayers called *Effata*, he proceeded in manner as followeth. But firſt, ſuppoſe we for our better underſtanding hereof, that now the *Augures* were to reſolve the people, whether the gods would aſſent that *Numa Pompilius* ſhould be King. The *Augur* having done as above is ſhewed, his *Lituus* being in his left hand, he reached forth his right hand, putting it upon *Numa Pompilius* his head, uſing this form of words, *Jupiter pater, ſi fas ſit Numam Pompilium, cujus ego caput teneo, regem Romæ eſſe, fac uti nobis ſigna certa ac clara ſint inter eos ſi us quos feci*, i. e. If it be lawful for this *Numa Pompilius*, whoſe head I hold, to be King of *Rome*, ſhew ſome manifeſt tokens within theſe regions or quarters which I have deſcribed. Then if he obſerved lucky ſigns and tokens he preſently pronounced *Numa Pompilius* King of *Rome*, if he perceived unlucky tokens, then did he *obnunciare*, or gainſay, and ſhew that the matter propoſed was not pleaſing to the gods. Where by the way we muſt note, that nothing was confirmed by the *Augures* without the appearance of two lucky tokens one after another; neither was any thing gainſaid by the appearance of the onely evil token. The diſtinctions of the ſoothſayings have been taken, ſome from the event, and thence are they called *proſpera*, lucky, or *adverſa*, unlucky; ſome from the manner of appearing, *d* and that was either wiſhed, being called therefore *impetrativa*, or unwiſhed, called *oblativa*: ſome from the diverſity of things which offered themſelves in time of divining, and of theſe were five diſtinct ſorts: the firſt was by the obſerving of lightening and thunder from Heaven, the ſecond from the flying and chatting of birds; the third from bread caſt to pullets or little chickens; the fourth from four footed beaſts, which either ſhould croſs the way, or appear in ſome unaccuſtomed place; the fifth from thoſe caſualties whereby the gods

d Serv. Æn. lib. 8.

gods do make their anger appear unto us. Of this sort are those voices which we hear we know not whence (as *e Cadmus* heard, when he overcame the Serpent,) the falling of salt towards us at the table, the shedding of wine upon our cloaths; from which casualties and the like, the *Augures* would pronounce either good fortune or bad to ensue. And these tokens were therefore called *Dira*, because thereby *Dei ira nobis innotescit*, the Gods anger is made known unto us. Now the things that in divining time appeared on the left hand, were commonly tokens of good luck, because the givers right hand in bestowing a benefit is opposite to the receivers left hand. Whence *f sinistrum*, though in humane affairs it signifies as much as unlucky, yet in those holy Rites of divining, *sinistrum* is taken in a contrary sense, as *Avis sinistra*, good luck; *Intonuit lævum*, it hath thundred luckily, we shall have good success; and it is said, *à sinendo*, because the gods thereby do suffer us to proceed in our purposed projects. And therefore *Tully* saith, *lib.* 1. *de divinatione*, *à sinistra tonitruatum & firmum Augurium fieri*: and in the law of the 12. tables it is said, *Ave sinistra populi magister esto.* *g* The *Grecians* from hence in the judgment of *Lipsius* have called the left hand ἀριστερὸν from ἄριστον signifying best.

e Vox subito audita est neque erat cognoscere promptum, Unde, sed audita est. Ovid. Met. l. 3. fab. 1.

f Serv. Æneid. lib. 2.

g Lips. Elect. lib. 2. cap. 2.

CAP. 7.
De Tripudiis & Pullariis.

THis kind of conjecturing is called *auspicium coactum quoniam necesse erat offa objecta cadere frustum expulire, cum pascitur.* The word *Tripudium* is used by a *syncopation* for *terripudium*, which is as much as *terripavium*, *id est*, a dancing or rebounding of any thing upon the ground: for *pavire* is the same with *ferire*. * Others say *Tripudium quasi teritio pedum*. It is here taken for the divining, or conjecturing of good or evil to come by the rebounding of crumbs cast to chickens in a coop or pen; whence the *Augur* from these pullets or chickens was called

h Cic. de divinat. lib. 1.

* Humbert in l. 6. Ep. fam. Cic.

led *Pullarius, id est*, a Bird-Prophet. *i* The manner in observing was this: as often as by this kind of conjecturing they desire to know the gods pleasure concerning the enterprizing of any matter, early in the morning those that were skilful in this kind of observation, repaired unto the place where the chicken were kept, where silence being commanded, and the coop opened, they cast crumbs of bread to the chicken: now if the chicken either came slowly, or not at all unto the bread, or if they walked up and down by it not touching it, then was it a token that the matter to be enterprized was displeasing unto the gods: but if contrarily the chicken did hastily leap out of the coop, and eat so greedily of the crumbs, that some should fall out of their mouths again, then the *Pullarius*, that is, the *Augur*, pronounced that it was well-pleasing to the gods, and encouraged the enterprizing of what they had intended cheerfully: and this was called *Tripudium solistimum*. This kind of conjecturing may seem to have its original from the *Lycians*, *k* who as often as they desired to foreknow the success of any enterprize, they went unto the fountain dedicated unto *Apollo*, into which they cast baits for the fish: now if the fishes did eat them, it did betide good luck: if otherwise they neglected the baits, then did it betoken some evil event.

i Alex. Gen. dier. l. 1. c. 27.

k Alex. ibid.

CAP. 8.

De Aruspicibus, Aruspicina, & Extispicino.

THis kind of Sooth-sayers, as they were called *Aruspices, ab aras aspiciendo*, from beholding the beast upon the Altar; so were they called *Extispices, ab exta aspiciendo*, from beholding the bowels or entralls of the beast, called in Latine *Exta*. In this kind of sooth-saying the *Aruspex* observed in manner as followeth; *l* first whether the beast to be sacrificed came unto the Altar willingly, without plucking and haling; whether he died without much strugling, or lowd bellowing, at one blow or

l Senec. Oed. act. 2. scen. 2.

or many; whether any unlucky object were ſeen, or heard by them whilſt they were ſacrificing. Again, after the beaſt was ſlain, then would they obſerve, whether the bowels were of an unnatural colour, whether they were not ulcerous, exſiccate or impoſtumated: moreover they would divide the bowels into two parts, the one they would call *partem familiarem*, from whence they would fore-tell what ſhould befall themſelves and their friends; the other they would call *partem hoſtilem*, whence they gathered predictions touching their enemies. Hence *Manto* in *m Seneca* deſcribing the entrals of his killed Sacrifice, ſaith, *Hoſtile validâ robore inſurgit latus*, meaning by *hoſtile latus partem hoſtilem*. Afterward when the Sacrifice was to be burned, they conſidered whether the flame of the fire was ſmoaky, whether the ſmoak rolled and tumbled in the aire, whether it were of any continuance or no: for all theſe were unfortunate tokens, as the contrary did betoken good and fortunate iſſue to their deſignments. Theſe [illegible], which obſerved the fire and ſmoak, were called by a more peculiar name *Capnomantes*, ſmoak-Augures, from the Greek word *καπνος* ſignifying ſmoak, and *μαντις id eſt, vates*, a Sooth-ſayer. The firſt inſtructions that the *Romans* received were from the *Hetruſci*, who (as they themſelves ſay) received their knowledg, from a little boy which they named *Tages*, the hiſtory being thus; *n* when the *Hetruſci* were plowing their lands upon a ſudden up ſtarted this *Tages* out of one of the furrows uſing divers ſpeeches unto the plow-men: but they being much affrighted at this ſudden and ſtrange viſion, began with a loud cry to lift up their voices: upon occaſion whereof many other people flocked thither, where, he gave many good inſtructions concerning this kind of Sooth-ſaying, which were preſently recorded in books, and practiſed afterward by the *Hetruſci*.

m Oed. Act. 2 ſcen.

n Cic. de divinat. Indigenæ dixere Tagen, qui primus Hetruſcam Edocuit gentem caſus aperire futuros. Ovid. Met. lib. ult.

CAP. 9.
De Flaminibus.

THe Mitre or head ornament which theſe Prieſts did wear, was called in old time *o Flama*, whence the Prieſts took their names *Flamines*. The *p* cuſtom amongſt the *Grecians*, as likewiſe afterwards amongſt the *Romans*, was, that the King ſhould as well perform ceremonies and holy rights of Religion, as civil buſineſſes. But *Numa Pompilius* percieving that forrain wars did oftentimes occaſion the Kings abſence, in ſomuch that thoſe Religious ceremonies which he himſelf perſonally ſhould perform, were of neceſſity ſometimes neglected, hereupon he ordained out of the *Patricii* three Prieſts to perform that divine ſervice unto *Jupiter*, *Mars*, and *Romulus*, which he himſelf otherwiſe ought to have performed, calling the firſt *Flamen Dialis*, the other *Flamen Martialis*, and the laſt *Flamen Quirinalis*, from *Romulus* which was often called *Quirinus*.

Sive quod haſta quiris priſcis eſt dicta Sabinis,
Bellicus ut telo venit in aſtra Deus.
Sive ſuo regi nomen poſuere Quirites,
Seu quia Romanis junxerat ille Cures.

In proceſs of time twelve others choſen from the Commons were added unto theſe, but with this note of diſtinction, that the three firſt were had in great eſteem, and were called *Flamines majores*, high Prieſts; the other of leſs note, called *Flamines minores*, inferiour Prieſts; the cheif of all was the *Flamen Dialis*, *Jupiters* high Prieſt. And whereas every one did wear a certain bonnet in form of a Mitre, which ſomtimes was called *Pileum*, ſometime (by the figure *Synecdoche*) *Apex* (whereas *Apex* doth properly ſignifie only the top of the bonnet) *q* none might wear *Albo-galerum*, *i. e.* a white Mitre, but only *Jupiters* Prieſt, and that was to be made of white Sheep-skin, after the Sheep had been ſacrificed. Whatſoever malefactor could

o Roſin. ant. l. 3. c. 15.

p Rex Anius Rex idem hominum Phœbiq; ſacerdos. *Virg.*

q Alex. Gen. dier. l. 6. c. 12.

could eſcape unto this Preiſt, he ſhould not be puniſhed that day. None was eligible into this office, but he that was married: neither was it lawful for him to marry twice, but if his wife died *Flaminio abibat, i. e.* he reſigned his ſacerdotal office. To him was permitted a rich robe of ſtate, and a Curule chair; none might fetch fire out of his houſe, unleſs it were to perform ſome Sacrifice therewith; *r* none might barb or pole him but a free-man, and that with brazen ſciſſers. Many other ceremonies there were which concerned this *Flamen*, as likewiſe Time added many other *Flamines*, namely *ſ* every god one; yea ſometimes thoſe threeſcore Pariſh-Prieſts which formerly were called *Curiones*, were called *Flamines Curiales*, and divers Emperors after their death had alſo their *Flamines*. *t* Moreover we muſt note that thoſe Prieſts wives were called *Flaminicæ*; Their Miniſters (for they were wont when they went to Sacrifice, to take a boy or a maid with them) *Flaminii*, or *Flaminiæ*: and the chief *Flamens* dwelling houſe was call'd *ædes Flaminia*, or *Flaminia*. But as it ſeemeth probable, *Numa Pompilius*, and ſo the other Kings ſucceeding him, did ſtill reſerve their right and authority in holy matters ſo far, that they would inſtruct other Inferiour Prieſts, yea and ſpecially perform ſome ſpecial Sacrifices themſelves: whereupon after that the Kings authority was abrogated amongſt them, then that theſe Sacrifices might be continued, they choſe a certain Prieſt, which they preferred before the *Flamen Dialis*, but judged him inferior to the *Pontifex maximus*, or Arch-pontifie, and him they called *Rex ſacrificulus*, and *Rex ſacrorum*, the King-Prieſt. To him once every year the Veſtal Nuns repaired, and uſed this form of words, *u Vigilaſne Rex? Vigila.* King art thou awake? awake. For unto him it did belong to bid holy dayes, and to provide all things neceſſary for publick Sacrifices. He was to inſtruct thoſe that ſought unto him, the cauſes of the holy dayes, and tell them what was lawful and unlawful every month; and upon the fifth of the *Ides* of January he Sacrificed a *Ram* to *Janus*.

r Serv. Æn. l. 1

ſ Feſtſ. de ſacrer. c. 5.

t Alex. Gen. dier. l. 1. c. 12.

u Serv. in Æn. 10.

He was likewise wont to offer up a Sacrifice in the *Comitium* or great Hall of justice, which being finished, he ran as fast as he could out of the Market-place without delay. His wife was called *Regina sacrorum*, the Queen-Priestess, and was wont upon the Kalends of every moneth to Sacrifice a Porker, or a Lamb in her place, in the honour of *Juno*.

CAP. 10.

De Marte, sive Mavorte, & saliis Palatinis Marti dicatis.

MArs otherwise called *Mavors* by the figure *Epenthesis*, as we say *Induperator* for *Imperator*, was reputed the God of War, and so *Metonymicè* is used for War, as *vario Marte pugnatum est*, the battel was doubtful; *proprio Marte* by ones own strength and labour. He was the son of *Juno* only, without company of her Husband: for when *Juno* was greatly displeased with her selfe, that *Jupiter* by striking his head, without the company of a woman did bring forth the goddess *Minerva*, she by the counsel of the goddess *Flora* touched a certain flower in the field of *Olenias*, by vertue whereof she immediately conceived the god *Mars*. This god, by reason of his dominion in War, the Romans painted fiery, sometimes in his Chariot, sometimes on Horseback, with a Javelin in one hand, and a Scourge in the other. In old Coyns there was sometimes the picture of a cock joyned with him, to shew the vigilancy and carefulnesse that Souldiers are to use. He was called *x Gradivus á gradiendo*, from marching in battel against his enemies. He had a Temple without the City, whence he was called *Extramuranus*. *y* Near unto this Temple, without the gate *Capena*, did lye a stone of great note, which upon great droughts the people would bring into the City, and presently rain would follow; whereupon it was called the Rainstone, *Lapis manalis*, *a manando*. *Numa Pomphilius* in the honour of *Mars*, sirnamed *Gradivus*, ordained twelve dancing

x Rosin. ant. l. 2. c. 10.

y Rosin. ibid.

dancing priests, called *Salii á z saliendo* from dancing, which number afterward we find to have been doubled by *Tullus Hostilus*, in the War against *Fidena*, a town of the Sabines. The former twelve being called *Salii Palatini*, from the Palatine Mount, where they did begin their maurisk: the order *Collini*, from the Hill where their Chappel stood; *a* and sometimes *Quirinales*: and sometimes *Agonales*: so that the whole Colledge contained 24 Priests. *b* The occasion of their first institution was this; upon a certain time, in the rain of *Numa*, the plague, or some other contagious sickness was very hot among the *Romans*, insomuch, that no Sacrifice, or holy Offering could remove it: at that time a certain brazen Target or Scutcheon, called in Latine *ænea pelta*, or *ancile*, big at both ends, but cut like a half Moon on each side, fell from heaven into *Numa* his hands, with a certain voyce promising all health unto *Rome*, so long as that brazen Target could be kept safe. Whereupon *Mamurius* a cunning workman, by the appoynment of *Numa*, made eleven other *ancilia*, so like the first, that neither could be known from the other (to the intent that if any should be so wicked minded as to steal it, he might fail of his purpose by mistaking one for another.) These 12 Priests had the custody and keeping of them committed to their charge, and in the moneth of *March* every year they apparelled themselves with a parti-coloured Coat, called *tunica versicolor*, girt close to their body with a belt, or sword-girdle, & a brest-plate of hardness, called *æneum tegmen*, upon that, and a robe of estate, called *trabea*, clasped about them upmost of all. Upon their heads they did wear *abices*, *i. e.* Caps *c* much like unto the *Persian* Bonnets, called in Greek κυρβάσιαι, or μίτραι. They did somwhat resemble our head-peices in War, made close unto the head, with a crest of cloath upon the top, whence some have called them *Galeas*. They being thus aparelled, danced about the *Forum*, or Market-place, and the Capitol, with short swords by their sides, a Javelin in the right hand, and their *ancile* in the

z Plutarch in Numa.

a Dion. Hal. lib. 2.

b Plutarch in Numa.

c Dion. Hal. lib. 2.

other; using certain Songs, either of the gods, and those they called *Januālii*, *Junonii*, & *Minervii*; or of men, and those they called *Axamenta*, because in those Songs they did *axare*, *i. e.* nominate and call upon the names of some well-deserving men; as *Mamurius* which made those eleven Scutcheons, was often called upon in those Songs. Upon their festival dayes they had excesse of cheer, whence *d Horace* hath used *Saliares dapes*, to signifie dainty fare.

d Horat. l. 1. Ode 37.

CAP. 11.

De Fœcialibus, & Patre patrate.

THese *Fœciales* were Officers at Arms, or Heraulds, to denounce war or proclaim peace, appointed thereunto at first *e* by *Numa Pompilius*. *f* The cheif part of their Office was to dissuade the Romans from molesting any confederate Nation, with unjust War: and if any confederate Nation did offer injury unto the Roman people, then did these *Fœciales* goe as Embassadors unto them, perswading and exhorting them to yeild the Romans their right: but if they continued thirty dayes obstinate, refusing to yeild to that which should be just and right, then did they presently denounce War against them, casting forth a dart in token thereof; which denunciation was *g* called *clarigatio, à clarâ voce quâ utebantur Fœciales*. Others are of opinion, that whensoever War was denounced, this Herald at Armes should *h* turn loose a Ram unto their enemies borders; signifying thereby, that their fields should shortly become pasture for the Romans: from which custom we say of one that challengeth another into the field, *Arietem emisit*. Again, if the *Imperator*, or Lord-general, had done ought against his Oath, these *Fœciales* by their Sacrifice did avert the wrath of the gods from him. The cheifest of them was called *Pater-patratus*, a perfect Father: for he only could be *Pater-patratus*, which had both children of his own, and his Father also alive. They were called *Fœciales*,

e Pomp. Lætus de sacer.
f Dion. Hal. lib. 2.
g Serv. Æn l. 9.
h Vid. Eras. Adag.

Fœciales, à fœdere faciendo, from making a league or peace between Nations. This league which we in Latine do call *Fœdus*, the Romans in old time *i* did call *Fides*, as *Ennius* and *Pighius* witness; whence these *Fœciales* were termed also *Fidei Flamines*.

i Pighius Septim. l. 1.

CAP. 12.

De Duumviris, & Decemviris, & Quindecemviris, Sacris faciendis, item de Sibyllis.

THis Priesthood had its first institution from *Tarquinius Superbus*, whose office was as well to expound, as to keep the Oracles of those ten Propheteſſes so famous throughout the world, called *Sibyllæ*. Concerning whom *k Munster* hath these words: In times past there came a strange woman to *Tarquinius* the King, offering nine books full of the *Sibylline* Oracles to be sold: but *Tarquinius* thinking the books too dear, refused to buy them; the woman departing, burned three of these books, and came the second time unto *Tarquinius*, demanding as much for those six books, as formerly she had done for the nine; *Tarquinius* began to deride her, whereat the woman departed, and burned three more, returning again unto *Tarquinius*, and asking as much for the three left, as she asked at first for all nine. Then began *Tarquinius* more seriously to bethink himself thereof, and sent for his *Augures*, asking counsel and advice of them. And they understood, by certain signes observed, that the King had refused some special goodness sent from the gods; and for the books that remained they advised that the woman should have what she asked; As soon as the woman had delivered her books, she presently vanished, and was never seen again; only warning them, to keep the books as safe as possibly they could. For the safe keeping of these, *Tarquinius* chose two of the Noble men, or *Patricii*, calling them *Duumviri*, appointing them, as well by study to expound, as with

k Munst. in sua Cosmog. l. 2.

with care to keep those Oracles. In process of time, the people obtained, that ten should be appointed to this office, *l* five of them being chosen out of the Commons, and five out of the Nobles: and then they were called the *Decemviri*. Afterward by *L. Sylla*, as it is thought, five more were added, so that they were then called the *Quindecemviri*: nay the number was increased by *Sylla* unto forty *m* as *Servius* thinketh, but still called by the name of *Quindecemviri*. Of these women that had the spirit of Prophesie, ten were very famous: the first was called *Persica*, the second *Libyca*, the third *Delphyca*, the fourth *Cumæa*, the fifth *Erythræa*, the sixth *Samia*, the seventh *Cumana*, the eight *Hellespontia*, the ninth *Phrygia*, the tenth *Tiburtina*: They all propheſied of the Incarnation of Christ. The place were these books were kept, was within the Capitol under ground in a Chest of stone, where they remained safe, untill the burning of the Capitol, at which time they also were burned. Notwithstanding many of the Propheſies have been known, partly by tradition, and partly being taken out of other copies in other Countries. One of the Propheſies concerning our Saviour Christ, was uttered by *Sibylla Delphica* in manner as followeth: *Nascetur Propheta absq; matris coitu ex utero ejus*, that is, There shall be a Prophet born without any copulation of the Mother, even out of her womb. It was spoken at *Delphos*. All their Propheſies were of that certainty, that when we would averre any thing to be undoubtedly true, we use to say, it is *Sibyllæ folium*, as true as *Sibylla's* Oracles. The *Cumæa Sibylla* did write her Oracles at the mouth or entrance of her Cave in leaves of trees, which the fierceness of the wind did oftentimes so scatter, that they could hardly be brought in order again: insomuch that when we would shew the great difficulty of bringing things in order, we may use *o Politian* his words, *Laboriosius est quam Sibyllæ folia colligere*, it is easier to gather *Sibylla's* leaves. This name *Sibylla* is not a proper name, but an appellative,

l Fenest. de facerd. c. 13.

m Serv. Æn. lib. 6.

n Munst. in sua Cosmog. lib.

Credite me vobis folium recitare Sybillæ.

o Epist. l. 2. lib. 1.

tive, common to all women endowed with the spirit of Prophecy, taking their denomination from *p* θεὸς, which is in the *Æolick* dialect the same that Θεὸς, *i. e.* God, and βουλὴ, *id est*, Counsel, because they did open and declare the Counsel and determination of God unto the people. It appertained also unto these *Quindecemviri* above mentioned, to see that Sacrifice, and divine service, that supplications, and processions, expiations, and all ceremonial Rites were duely performed.

p Serv. Æn. l. 6. θεὸς enim Deos, non Θεὸς, & consilium non βουλὴ, sed βουλὼ, appellabant Æolico genere sermonis. Lact. de falsa religione. l. 1. c. 2.

CAP. 13.

De Bona Dea, & Sacris ejus.

THis Goddess which is so famous by the name of *Bona dea*, is the Globe of the Earth: which is therefore termed *Bona dea*, the good Goddess, because we reap so many good things from the Earth. She is called also *Ops*, the helping Goddess, *ab ope*, from help, because by her help we live. She is called *Fatua*, and *Fauna*, i. e. the Goddess of speech, because young children do never speak untill they are able to go, and so have touched the earth. The *Grecians* called her γυναικεῖα θεὸ the Female Goddess, because that no Male might be admitted to her Sacrifices; nay the very pictures of men were at that time to be covered. The inner room where her Sacrifices were, was called τὸ γυναικεῖον the place for womens assemblies. *q* Those that were chief in those Sacrifices, were the Vestal Nuns. This good Goddess was supposed to be the wife of *Faunus*, and upon a time to have been taken drunk with Wine by him: for which fault, *Faunus* was said to have beaten her to death with rods of Myrtle-tree; but afterward, being sorry for that he had done, in amends he made her a Goddess, and as it were ever after detesting the Mirtle-tree, he hallowing all other herb and flowers to be used in these Sacrifices, forbad the myrtle-tree. Some say she was so chast, that she was never seen by any man but by her husband; and in respect of

q Cic. orat. de Aruspicum respons.

her chastity, the Myrtle-tree is forbid, because it was consecrated to *Venus*: but whereas in this Sacrifice they used Wine, they called it not by the name of Wine, but Milk or Honey; *r* whence they called the vessel wherein the Wine was put *Amphoram mellariam, i. e.* the Honey vessel. This sacrifice became very famous by reason of *Clodius*, who being in love with *Pompeia, Julius Cæsars* Wife, came unto these Sacrifices in womens apparrel, and was found out by *Aurelia, Julius Cæsars* mother. This *Clodius* became so infamous for this, and other his adulterous pranks, that he occasioned a common Proverb amongst the Romans, *Clodius accusat Mœchos*, answerable to which our English Proverb is, One Theif accuseth another.

r Alex. Gen. Dier. l. 6. c. 8.

CAP. 14.

De Cibelle, & sacerdotibus ejus.

THe Goddess *Cibele*, or rather *Cibelle*, was in her infancy exposed unto wild beasts, upon the hill *Cybellus*; where she being nourished by the wild beasts, afterward became a woman of admirable beauty, and being found by a Shepheards wife, was brought up by her as her own child, and called *Cybelle*, from the hill *Cybellus*. She excelled in natural gifts, and was the first that used a Taber and Pipe, and Cimbals among the Greeks. Moreover she tenderly loved Children, and therefore was called *magna mater*: she also called *mater deorum*, the mother of the Gods.

Ipsa deûm fertur genetrix Berechynthia. Virg.

She was called *Rhea, à ῥέω*, to flow, because she doth flow and abound with all kind of goodness. She was also named *Pessinuntia*, from the City *Pessinus* a Mart town in *Phrygia*, where she had a Temple. Moreover she was called *Berechyntia*, from the hill *Berechynthus* in *Phrygia*; where she was worshipped. Her Priests were called *Galli*, and their chief Governour *Archi-Gallus*; they took their name from a certain river in *Phrygia*, called *Gallus*; of which

s Pomp. Læt. de sacerd.

which whosoever drank, he became so mad, that he would presently geld himself, (as in truth all her Priests were enjoyned to geld themselves with a fish-shell) the original of which custome is rendred thus: *Cibelle* loved a young man of *Phrygia* called *Atys*, and him she appointed chief over-seer for her Sacrifice: upon condition that he would keep himself chast perpetually: but he not long after deflowred a Nymph, for which fact *Cibelle* bereft him of his wits and understanding, so that he in his madness did geld himself, and would have killed himself also, *t* had not the Gods in their commiseration towards him, turned him into a Pine-tree. In remembrance of him ever after, her Priests were gelded. Every year the *Prætors* did Sacrifice unto this Goddess. But the performance of the holy and religious rites at that time did belong unto a *Phrygian* man and *Phrygian* woman, chosen for that purpose: Which according to the manner of their Country being apparelled with a party-coloured garment, called in Latine *Synthesis*, or *amictus variegatus*, and carrying the picture of their Goddess about with them in the streets, they struck their breasts with their hands, keeping tune with the Tabers, Pipes, and Cimbals, which other people following plaid upon. The Priests were also called *Corybantes*, from one *Corybantus*, which was one of her first attendants; and hereupon we call the Cymbal *æra Corabantia*. In this manner dancing about the streets, they begged money of the people whom they met: and hence were they named *Cibelle* her collectors, or her *circulatores*, *id est*, Juglers. Some called them μητραγυρτ from μητηρ which in this place signifieth *Cybelle*, called the great Mother, and αγυρτης a beggar or gatherer of alms. *u* Others have called them *Mitricia*: But by what name soever they were called, the place was so infamous by reason of their drunkenness, and incivility used at these times, that when they would point out a notorious naughty fellow, they would call him *circulatorem Cybelleium*, *Cybelle*

t Cibellius Atys Exuit hac hominem truncoq; induitur ille. *Ov. Mx.*

u Rosin. ant. l. 3. c. 2.

belle her Jugler. Neither was it lawful for any free-born to undertake that office.

CAP. 15.

De Collegio Pontificum, & Pontifice Maximo.

THis word *Pontifex* is commonly translated a Bishop or Prelate, being called *Pontifices* in Latine, as also Pontifies in English, from one part of their office, which was to have the oversight of a great wooden bridge, called in Latine *Pons sublicius*; being so great that Carts and Wains might pass over it, having no Arches to uphold it, but only great piles and Posts of wood: *x* and that which is most remarkable in it, was that it was joyned together only with wooden pins without any iron at all. Others are of opinion, that they were termed *Pontifices quasi potifices*, from *potis* and *facio*, of which opinion *Lucan* seemeth to be, according to that, *Pontifices sacri quibus est commissa potestas*. Concerning the *y* number of them, only four were appointed by *Numa*, all which then, were to be chosen out of the *Patricii*: afterward four more were added out of the Commons. These were called *Pontifices majores*, or chief Pontifies, to distinguish them from seven other, which afterward *Sylla* added, and *z* called them *Pontifices minores*, inferiour Pontifies. The whole Company of them was called the Colledge of Pontifies. This colledge is priviledged from all allegiance, being not bound to render account of their doings either to the Senate or Commonalty. They were to determine all questions concerning Religion, as well between their Priests as between private men: they had authority to punish any inferiour Priest, if he either detracted or added unto those Religious Rites which were prescribed him. They had their great Pontifie, whom they called *Pontificem Maximum*. These Pontifies were wont to exceed in their diet, insomuch that when the *Romans* would shew the greatness of a feast,

x Plutarch in Numa.

y Feneſt de sacerd.

z Rosin. ant. Lib. 6. c. 22.

feaſt, they would ſay it was *Pontifica cœna*, *i.e.* according to our Engliſh phraſe, A feaſt for an Abbot. *Cœna adjicialis* is taken for the ſame. *a Lipſius* in the expoſition of the latter phraſe taxeth the Printers negligence, and is of opinion, that it ſhould rather be Printed, *Cœna aditialis*, underſtanding hereby a ſolemn feaſt made by Magiſtrates *in aditu honoris*, at their entrance into their office, and at their day of inauguration.

a Lib 4. de magn. Rom. c. 9.

CAP. 16.
De Epulonibus.

THe Pontifies in old time appointed three men, whom they called *b Trium viros Epulonum*, (from *Epulum* a feaſt) to have the overſight of the feaſts made at Sacrifices; afterward by reaſon of two twice added, they were called firſt *Quinque-viri*, and at length, *Septem-viri Epulonum*.

b Lazius de Repub. Rom. l. 3. cap.

CAP. 17.
De Titiis.

ANother ſort of religious men there were, which lived in the Suburbs of the City, and practiſed ſoothſaying; they were called *c Titii* from the name of the birds which they obſerved: which in latine were called *Titi*

c Pancirol. l. rerum. deperdit. cap. de mole Hadriani.

CAP. 18.
De Virginibus Veſtalibus.

NEar unto *Caſtors* Temple ſtood the Religious Houſe or Nunnery, dedicated to the Goddeſs *Veſta*: where at the firſt were four, after ſix Virgins, or Votaries elected, whoſe office was chiefly to keep the Sacred fire; the extinction whereof proved ominous, and did portend ſome evil event ſhortly to happen. And therefore for their negligence herein, as for all other ſmall faults, they being had into a dark corner, ſtripped naked, and a cur-

curtain drawn half way over them, the chief Pontifie ſcourged them: neither was it lawful to kindle the fire once put out, with any other fire, but from the Sunbeams, for which purpoſe they had certain inſtruments named *c* σκαφεῖα, which were formed in the manner of a *Pyramis*, but hollow; ſo that the beames being collected within the circumference, and meeting in the *vertex*, did eaſily kindle any combuſtible matter put into it; but chiefly if the matter were of black colour; becauſe, as Philoſophy teacheth, a dark colour doth congregate, or collect the beames, whereas whiteneſs doth diſperſe them. A ſecond part of their office, was to work reconciliation between parties offended, as appeareth by *d Suetonius*, where we may read, that by their interceſſion *Sylla* was reconciled to *Cæſar*. They were choſen into this place between the ſixth and the eleventh year of their age: and they were to remain in this Nunnery thirty years ſpace, ten yeares to learn their ceremonies, and miſteries, ten years to exerciſe them, and ten yeares to inſtruct others: within which ſpace if they had ſuffered their bodies to be defiled, they were to undergo that fearfull puniſhment * afore mentioned. But theſe thirty yeares being expired, marriage was lawful for them; ſo that they laid aſide their Scepters, their Fillits, and other their Sacerdotal Ornaments. Notwithſtanding thoſe which did marry, in the end died fearful deaths: whereupon they choſe rather to abſtain commonly. The Romans had them in great honour, ſo that they never walked abroad, but with an Iron Scepter in their hands, and whatſoever malefactor met them (if the Nun would take her oath it was by chance) he eſcaped puniſhment. They were named *Veſtals* from their Goddeſs *Veſta*, which word (as *e Munſter* writeth) is derived from the Hebrew *Radix* ſignifying fire. The eldeſt was called *Maxima Veſtalis Virgo*, i. e. the Lady Prioreſs, or cheif Governeſs.

c Plutarch. in Numa.

d Suet. in Julio.

* Vid. ſup. p. 14.

e Munſt. in ſua Coſmog. l. 1. c. 9.

CAP.

CAP. 19.

De veterum sacrificiis, & ritu sacrificandi.

WHatsoever was burnt or offered up unto the Gods upon an Altar, it had the name of a Sacrifice: and sometimes it was called *victima, quod vincta ad aras stabat*, because the beast to be Sacrificed stood bound unto the Altar; sometimes *Hostia*, from an absolute verb *Hostio*, which is to strike, because certain under-officers called in Latine *Popæ* (standing by the Altars, all their upperpart naked, and a Laurel garland upon their head) did *Hostiare victimam*, i. e. strike down and kill the Sacrifice. Others are of opinion, that this name *Hostia* is taken from *Hostis* an enemy, according to that of *Ovid*, *Hostibus a domitis hostia nomen habet*; because either before War, to procure the Gods favour, or after War, in token of thankfulness, they did *hostiam ferire*, i. e. offer up the Sacrifice. The second difference of Sacrifices hath been occasioned in respect of the time, and so they have been called *præcidaneæ*, or *succidaneæ*, *quasi præcedaneæ & succedaneæ*. Those Sacrifices were offered up the day before any solemn Sacrifice, were called *præcidaneæ hostiæ* fore-Sacrifices, as we English *præcursorem*, a fore-runner: which fore-Sacrifices, if by any token they found unlucky, then would they offer up a second Sacrifice, which they termed *hostiam succidaneam*; and because these second Sacrifices were to be offered only instead of the other, when they were unlucky or faulty, hence hath *Plautus* used this speech, *meum tergum stultitiæ tuæ subdes succidaneum*? Must I be whipped for thy fault? The manner of Sacrificing was as followeth; some certain dayes before any Sacrifice was to be performed, the Priest was wont to wash his whole body, *f* especially his hands and feet, which if he had not washed, the Sacrifice was accounted polluted: and alluding unto this custom, we say, a man doth

f Vid. Eras. Adag.

doth *Accedere ad remillatis manibus*, or *illotis pedibus*, as often as he enterpriſeth any buſineſs without due reverence or preparation thereunto.

Μηδ' ἐπὶ νηπύτῳ δὲ λείβειν αὐθρωπα δίεσθαι
Κρητὴρ ἀνίπτοισιν. Heſiod. ἔργων ἡμέρ.

Moreover, the Prieſt was to abſtain from his Marriage-bed, as likewiſe from divers kinds of meats, and at the time of his going to Sacrifices, either himſelf, or ſome inferiour Sexton going before him with a rod or wand in his hand (called *commentaculum*) *g* uſed this form of words unto the people, *Hoc age*, attend this you are about: which cuſtom ſeemeth to have had its original from the *Grecians*; for before the time of Sacrifice, the *Grecian* Prieſt uſed almoſt the like ſpeech unto his people, as τὶς τὶ δὲ, *i. e.* who is here? the people anſwered πολλοὶ ἀγαθοὶ, *i. e.* many men and good. After this preparation, then did the Prieſt, laying his hands upon the Altar, reherſe certain Prayers *h* unto the God *Janus*, and the goddeſs *Veſta*, becauſe the Romans were perſwaded, that without their interceſſion, they might not have acceſs unto the other Gods: his prayer being ended, then did he lay *i* upon the beaſts head a little Corn, together with a Cake made of Meal and Salt, called in Latine *Mola*, *k Mola erat far toſtum, ſale aſperſum*. From this ceremony the act of Sacrificing hath been termed *Immolatio*. After this the Sooth-ſayer drank Wine out of an earthen or wooden Chalice, called in Latine *Sipulum*, or *Simpuvyum*. It was in faſhion much like our Ewres, when we pour water into the Baſon. This Chalice was afterward carried about to all the people, that they alſo might *libare*, *i. e.* lightly taſt thereof, which Rite hath been called *Libatio*. Now every one having taſted thereof, the reſt of the Wine, with Frankincenſe mixt in it, was to be poured upon the beaſts head, *m* between the horns, one crying out with a loud voice, *Macta eſt hoſtia*, i.e. *magis aucta*, more increaſed and made more pleaſing unto the Gods; as *Virgil* ſaith *Macte nova virtute*

g Plutarch. Numa.

h Serv. Acc. lib. 1.

i Pancirol. lib. rerum. de perdit. c. de ſale Ammoniaco.

k Textor in ſua officina, Sparge falſa collataurorum mola. Sen. Oedip. Act. 2. ſcen. 2.

l Pancir. lib. rerum. deperdit. c. de Ammoniaco ſale.

m Media inter cornua fundit Virg. Æneid.

virtute puer, i. e. O good child which increaſeſt in vertue. And hence, even from this term, we may conjecture, that the word *Macto*, which ſignifieth to kill, and ſometimes to Sacrifice, hath had its original, becauſe they did immediately after that voice, *mactare hoſtiam*, that is, ſlay the Sacrifice; and that was done in this manner; *n* Firſt the Prieſt did pluck off ſome of the beaſts hairs between the horns, and caſt them into the fire, calling them his *prima libamina*, i. e. his firſt offerings: Then did he, turning his face towards the Eaſt, draw a long crooked knife upon the beaſts back, commanding his underofficers, which I called *Popæ* (others *Cultarii*, from their knife; *Victimarii*, from the hoaſt; and *Agones*, becauſe they ſtanding ready to give the ſtroak, often uſed this word *Agon*, for *Agone*, i. e. Muſt I to my work?) to kill the beaſt. The other people ſtanding by, ſome did with veſſels ſave the blood, others did flea or skin the beaſt, others waſhed it. Anon, ſome Soothſayer or Prieſt did obſerve the entrails, turning and winding them with a knife, which was called *Stecſpita à ſecando*: for he might not touch them with his hand, they conceiting, that if the Sacrifice had proved polluted, his hand would then have periſhed. Now after the Sooth-ſayer or Prieſt had ſufficiently turned the entrails, and found no ill token therein, then did thoſe *Popæ* or Church-butchers, cut off from every bowel ſome portion, which after they had rolled in barly meal, they ſent it in baskets to the Prieſts, and the Prieſts taking it up into a broad charger or platter, called *diſcus*, or *lanx*, laid it upon the Altar, and burnt it, and *o* this was properly termed *litare* or *reddere*, i. e. to Satisfie by Sacrifice, or to pay the Sacrifice which was owing unto the Gods. After that the portion laid out for the Gods had been burnt, then did all the people repair unto a common feaſt; where, as they were eating, they ſung Hymns and Songs in the praiſe of their Gods, and playing on Cimbals, they danced about the Altars, intimating thereby, that there was no part of their body,

n Roſin. ant. l. 3. c. 13.

o Joac. Camerar. pro Flac.

but ſhould be employed in the ſervice of their gods. Now until all their Ceremonies and Miſteryes were finiſhed, it was not lawful for any to taſt of this feaſt: inſomuch that we ſince have uſed to check a glutton, or greedy-gut which cannot abſtain from his meat till grace be ſaid, in this manner, *Sacra haud immolata devorat.*

CAP. 20.

De Nuptiis, & nuptiarum renunciatione.

SEeing that Marriages and Burials have ſuch dependance upon the Prieſts, it will not be amiſs to conclude this Section with two Chapters, briefly opening the Ceremonies of both. Before we come to the ſolemn Ceremonies uſed by the *Romans* in their Marriages, we will firſt ſhew the manner of their contracts, which were called by the *Romans* a *Sponſalia à ſpondendo*, becauſe in their contracts each did promiſe other to live as man and wife. Now the manner of contracting was commonly thus; They had for the greater ſecurity, writ down the form of the contract upon tables of Record, as appeareth by *Juvenal*, Sat. 6.

a Salmuth. in Pancirol. l. rerum deperdit. cap. de nuptiis.

Si tibi legitimis pactam, junctamq; tabellis
Non es amaturus ———

These tables were alſo ſealed with the ſignets of certain Witneſſes there preſent, who were termed from their act of ſealing, *Signatores*. Moreover, before they would begin the Ceremonies of their contract, the man procured a Soothſayer, and the woman another, with whom firſt they would conſult. Whence *Juvenal*, *Sat.* 10.

——— *Veniet cum ſignatoribus auſpex.*

The token or ſign which theſe Soothſayers in time of obſerving accounted moſt fortunate was a Crow: *b Ea enim cornicum ſocietas eſt, ut ex duobus ſociis altera extincta, vidua altera perpetuo maneat.* The man alſo gave in token of good will a Ring unto the woman, which ſhe was to wear upon the next finger unto the little finger of the left hand,

b Alex. Gen. l. c. 2.

hand, *c* becauſe unto that finger alone, proceedeth a certain artery from the heart. The word *Nuptiæ*, which ſignifieth marriage, had its derivation *à nubo*, *d* which verb in old time ſignified to cover: the cuſtom being, that the woman ſhould be brought unto her husband with a *e* yellow vail (called *Flammeum*) caſt over her face. Again, becauſe of the good ſucceſs that *Romulus* and his followers, had in the violent taking away of the *Sabine* women, *f* they continued a cuſtome, that the man ſhould come and take away his wife by a ſeeming violence, from the lap or boſome of her Mother, or next kin. She being thus taken away, her husband did diſſever and divide the hair of her head with the top of a ſpear, wherewith ſome Fencer formerly had been killed. This ſpear was called by them *Haſta cœlibaris*, *g* and the Ceremony did betoken, that nothing ſhould diſ-joyn them but ſuch a ſpear, or ſuch like violence. The next day after the Marriage, a ſolemn feaſt was held, where all the Bride-mans and Bride-womans friends met to make merry; this feaſt they called *Repotia*. We muſt note, that *h* that three manner of wayes a woman became a mans lawful wife: *Uſu*, *Confarreatione*, *Coemptione*. A woman became a mans lawful wife, *Uſu*, *i. e.* by preſcription or long poſſeſſion, if that ſhe were wed with the conſent of her overſeers, and ſo did live with the man, as with her lawful husband, a whole yeares ſpace, *nullo interrupto uſu*, i. e. ſhe being not abſent from him three nights in the whole yeare: and ſome have thought, that the counterfeited violence in taking away the Maid from her friends, was uſed onely in this kind of marriage. A woman became a mans wife *confarreatione*, i. e. by certain ſolemnities uſed before a Pontifie, or chief Biſhop, when the woman was given unto the man, uſing a ſet form of words, ten Witneſſes being preſent, and a ſolemn Sacrifice being offered, at which the couple married ſhould eat of the ſame barley cake which formerly had been uſed in the Sacrifice. Which Sacrifice was termed, *á farre*, *confarreatio*; and the marriage

c Aul. Gel.

d Roſin ant. l. 5. 37.

e Plin. l. 21. c. 8

f Sig. de jur Rom. l. 1. c. 9

g Salmuth. in Pancirol. lib. rerũ deperdit. cap. de nuptiis.

h Boeth. Topicor. 2. vid. Cœl. Rhod. l. 28. c. 17.

i Sig. de jur. Rom. l. 1. c. 9.

k Cic. orat. pro Muræn.

it ſelf *Farreatia*, k and ſometimes *Sacra*, ſimply; the diſſolution of this kind of marriage *Diffarreatio*. A woman became a mans wife, *Coemptione*, i. e. by buying and ſelling, when the woman did under a feigned form of ſale buy her husband, by giving him a peice of coyn. *Veteri Romanorum lege, nubentes mulieres tres ad virum aſſes ferre ſolebant: atq; unum quidem, quem in manu tenebant, tanquam emendi cauſa marito dare.* l To theſe three ſome teach, that a fourth ſort of marriage was in uſe among the *Romans*; Namely, when a woman became a mans wife, *Sortitione*, by a kind of Lottery: and of this they ſay m *Sueton* ſpeaketh. n In that kind of marriage which was *per Coemptionem*, the man was not named by his proper name, nor the woman by hers, but the man was named *Caius*, and the woman *Caia*, in the memory of the chaſt and happy marriage of *Caia Cæcilia*, wife to *Tarquinius Priſcus*; from whence ſprang a cuſtom among them, that the new married wife, when ſhe was brought home unto her husbands houſe, was to uſe this Proverb, *Ubi tu Caius, ibi ego Caia*, by which word ſhe ſignified, that ſhe was now owner of her husbands goods, as well as himſelf: and therefore *Eraſmus* hath expounded that ſaying by theſe words, *Ut tu dominus, ita ego domina*; o And ſhe that was thus married *per coemptionem*, was properly called *Mater-familias*. p If any of theſe Ceremonies were omitted, then was the marriage termed *Nuptiæ innuptæ*, in which ſenſe we call our enemies gifts no gifts Ἔχθρων ἀδῶρα δῶρα. Theſe ceremonies being ended, towards night the woman was brought home to her husbands houſe with five Torches, ſignifying thereby the need which married perſons have of five Gods, or Goddeſſes, *i. e. Jupiter, Juno, Venus, Suadela*, and *Diana*, who oftentimes is called *Lucina*, the reaſon of the name being rendred by *Ovid*:

Sig. de jur. Romd. l. c. 5.

m Suet. in Tib. c. 35.

n Cic. orat. pro. Muræn. Ir. Fr. Syl. Ibidem.

o Cœl. Rhod. l. 28. c. 17.

p Hiero. Ferarius in Philippic. orat.

——*Dedit hæc tibi nomina lucus,*
Aut quia principium tu Dea Lucis habes.

There are of opinion, who think that the uſe of theſe Torches

Torches was not only to give light, but to repreſent the element of fire: for no marriages were thought happy, which were not contracted *Sacramento ignis & aquæ*; for which reaſon the cuſtome likewiſe was to beſprinkle the new married woman with water; yea, they did both in the time of their contract touch water and fire provided for that purpoſe. The ſignification of this ceremony, ſome think to be thus; The fire, becauſe it is an active element to repreſent the man; The water, becauſe it is paſſive, to repreſent the woman. Others ſay, that in the community of theſe two elements, was intimated the community between man and wife, of all other their goods and poſſeſſions, which was more fully declared in that fore-quoted Proverb, uſed by the wife, *Ubi tu Caius, ibi ego Caia.* The matter whereof theſe Torches were made, was a certain tree, from which a pitchy liquor did iſſue: it was called *Teda,* and thence have the Poets figuratively called both the Torches and the Wedding it ſelf *Tedas.* When the woman had been thus brought to the door, then did ſhe anoynt the poſts of the door with oyle,[q] from which ceremony the wife was called *uxor, quaſi unxor.* This ceremony of anointing being ended, the Brideman did lift her over the threſhold, and ſo carried her in by a ſeeming force, becauſe in modeſty ſhe would not ſeem to go without violence into that place, where ſhe ſhould loſe her Maiden-head. At her carrying in, all the company did cry out with a loud voice, *Talaſſio, Talaſſio*, for which cuſtom, [r] *Plutarch* alleadgeth many occaſions; this being one. Among thoſe who raviſhed the daughters of the *Sabines*, there were found ſome of the meaner and poorer ſort, carrying away one of the faireſt women; which being known, certain of the Citizens would have taken her from them, but they began to cry out, that they carried her to *talaſſius*, a man well beloved among the Romans; at which naming of *Talaſſius* they ſuffered her to be carried away, themſelves accompanying her, and often crying *Talaſſio, Talaſſio,*

Panciro. lib. rerum. deperdit. cap. de Nuptiis.

[q] Serv. Æn. l. 4.

[r] Plutar. vit. Pompeii.

From

From whence it hath been continued a custom among the Romans, ever at their marriages to sing *Talassio*, *Talassio*, as the Greeks did *Hymen*, *Hymen*. From this custom of leading or bringing home of the new married Bride, cometh that Comical phrase, *Ducere uxorem*, to marry a Wife. She being thus brought home, received the keys of her husbands house, whereby was intimated, that the custody of all things in the house, was then committed unto her. *f* The marriage bed was called *Genialis lectus*, as we may suppose, *quasi Genitalis*. *t* Sometimes it was called, *Lectus adversus*, *quod hunc lectulum religiose servari mos fuit*, *& in atrio collocari januæ ex adverso*, i. e. they placed this bed in the Court, directly opposite to their gate, keeping it as some religious monument or pledge of matrimony. The next day after the marriage, the Bride-woman received gifts of her friends, which the Lawyers terme *Nuptialia dona*. *u* But *Cicero* expoundeth these *Dona Nuptialia*, to be certain tokens, which the husband sent to his wife before the betrothing. If after the marriage any discontent hath faln out between the man and his wife, * then did they both repair to a certain Chappel, built in the honour of a certain goddess, called *Dea viri-placa*, *à viris placandis*. Whence after they had been a while there, they returned friends. We have thus seen the Rites and Ceremonies which the Romans used in their contracts and marriages; it would not be impertinent to annex the manner of their divorcements, which upon just causes were permitted. *x* There were two manner of divorcements, the one between parties only contracted, the second between parties married. The first was properly called *Repudium*, in which the party suing for divorcement used this form of words, *Conditione tua non utar*. The second was called *Divortium*, wherein the party suing for t, used these words, *Res tuas tibi habe*[illegible] *vel res tuas tibi agito*. Both these kinds were termed *Matrimonii renunciationes*, renouncing or refusal of marriage. Where me must

f Alex Gen. dier. l. 2. c. 5.
t Lips. Elect. l. 1. c. 17.
u Vid. F. Syl. Pro Cluent.
* Sig. de jur. Rom. l. 1. c. 6.
x Rosin. ant. l. 5. c. 38.

must note, that instedof this verb *renunciare*, divers good Authors doe use this phrase, *Mittere*, or *Remittere nunciam*: as *C. Cæsar Pompeiæ nuncium remisit*, *C Cæsar* hath divorced *Pompeia*. And alluding here unto *y Cicero* saith, *virtuti nunciam remisit*, i. e. he hath cast off all goodnes, he hath even divorced vertue. Secondly, we must note, that this verb *Renuncio*, doth not only signifie to renounce or to refuse, but many times in *Tully* it signifieth to declare or pronounce a Magistrate elected, as *Renunciare Consulem Prætorem*, &c. The reason why in matrimonial contracts it signified to renounce or refuse, was because in these divorces they did oftentimes send to their wife, *per nuncium*, by a messenger, some bill or scrole of Paper, containing the causes of the divorce. Moreover we are to observe, that in these divorces, the Ceremonies were quite contrary to those in Marriages; the just causes of being fore-signified to the Censors, the Marriage tables were broken, the dowry restored, the keys of the house taken from the woman, and she turned out of doors: all which Ceremonies are at large treated of by *Tho. Dempster. l. 5. Antiq. Rom. c.* 38.

y Ep. fam. l. 5.

CAP. 21.

Quo apparatu, quibusq; ceremoniis apud veteres defuncta corpora igni tradebantur.

The Romans in ancient time, when they perceived a body dying, had such a custome, that the next of the kin should receive the last gasp of breath from the sick body, into his mouth, as it were by the way of kissing him: (to shew thereby how loath and unwilling they were to be eprived of their friends) and likewise should close the eyes of the party being deceased. Whence *Anna* said unto her sister *Dido* now dying,

z Virg. Æn. 4.

——*z Extremus si quis super halitus errat,*
Ore legam——

And *Penelope* wishing that her son *Telemachus* might outlive

live her self and his Father, writeth to her husband in this manner, *Ille meos oculos comprimat, ille tuos.* After the body had thus deceased, they kept it seaven dayes unburied, washing the corps every day with hot water, and sometimes anoynting it with oyle, hoping that if the body were only in a slumber, and not quite dead, it might by these hot causes be revived.

Per calidos latices aliena undantia flammis
Expediunt, corpusq; lavant frigentis & ungunt.

In these seven dayes space, all the dead mens friends met together now and then, making a great out-cry or shout with their voices, hoping that if the dead body had been only in a sound or sleep, he might thereby be awaked. This action was termed *conclamatio*; Whence when we have done the best we can in a matter, and cannot effect it, we say proverbially *conclamatum est*, for this third conclamation or general outcry (which was always upon the seventh day after the decease) was even the last refuge, at which if the body did not revive, then was it carried to burial being invested with such a gown as the parties place or office formerly had required. Those who had the dressing, chesting, or embalming of the dead corps, were called *Pollinctores*: After they had thus embalmed the corps, they placed it in a bed fast by the gate of the dead mans house, with his face and heels outward toward the street, according to that of *Persius*.

——Tandemq; beatulus alto
Compositus lecto, crassisq; lutatus amomis,
In portam rigidos calces extendit ——

Herewith accordeth *Homer*, speaking of *Patroclus* his Funeral,

Ὃς μοι ἐνὶ κλισίῃ δεδαιγμένος ὄξεϊ χαλκῷ
Κεῖται ἀνὰ προθύρον τετραμμένος —— *i. e.*
Qui mihi in tabernaculo confossos acuto ære
Jacet ad vestibulum conversus.

This Ceremony was properly called *corporis collocatio*: and fast by this bed neare the gate also was erected an Altar,

tar, called in Latine *t Acerra*; upon which his friends did every day offer incence until the burial: The gate on the outside was garnished with Cipress branches, if the dead man were of any wealth or note: for the poorer sort by reason of the scarcity of the tree could use no such testimony of their mourning.

t Alex. Gendier. l. 3 c. 7.

u Et non plebeios luctus testata expressus.

u Lucanus.

In these seven dayes space, certain men were appointed to provide all things in readiness for the funeral; which things were commonly sold in the *x* Temple of *Libitina*, from whence those providers were termed *Libitinarii*, though sometimes this word *Libitinarius* doth signifie as much as *Capularis*, an old decrepit man ready for the grave. Upon the eighth day a certain Crier in manner of a Belman went about the Town to call the people to the solemnization of the Funeral in this form of words; *Exequias y. L. Tito L. Filio quibus est commodum ire, jam tempus est. Ollus ex ædibus effertur.* After the people had assembled themselves together, the bed being covered with purple, or other rich covering, the last conclamation being ended, a Trumpeter went before all the company, certain poor women called *Præficæ* following after, and singing songs in the praise of the party deceased: where we must note, that none but the better sort had a Trumpet sounded before them; others had only a Pipe; *z Senatoribus & patriciis tuba, minoribus & Plebeiis tibia canebant fiticines*, this word *Siticines*, signifying either a Trumpeter or Piper, because they did both *ad sitos*, i. e. *mortuos canere*. Again, except it were one of the Senators, or Chief Citizens, he was not carried out upon a bed, but in a Coffin upon a Bier. Those that carried this bed were the next of the kin, so that it fell often among the Senators themselves to bear the corps; and because the poorer sort were not able to undergo the charges of such solemnities, thereupon were they buried commonly in the dusk of the evening, and hence *à vespertino tempore*, those that carri-

x Alex. Gen. dier. l. 5. c. 16.

y Rosin. ant. l. 5.

z Alex. Gen. dier, l. 3.

ed the corps were termed *vespæ*, or *vespillones*. In the burial of a Senator or chief officer, certain waxen Images of all his Predeceſſors were carried before him upon long poles or ſpears, together with all the Enſignes of honour which he deſerved in his life time. Moreover, if any ſervants had been manumiſſed by him, they accompanied the mourners, lamenting for their Maſters death. After the corps, followed the dead mans children, the next of kin, and other of his friends *atrati*, *i. e.* in mourning apparrel. From which act of following the corps, namely *à ſequendo*, theſe Funeral Rites have been termed *Exequiæ* as *Donat* hath obſerved upon that of *Terence*, *Eunus interim procedit, nos ſequimur.* Which Rites becauſe they were performed as debts due unto the party deceaſed, hence were they alſo called *Juſta*. *Eo dicuntur juſta, quod jure mortuis factitari debent à vivis. Polyd. de invent. l. 6. c. 9.* The corps being thus brought unto their great Oratory called the *Roſtra*, the next of the kin *a laudabat defunctum pro roſtris*, i. e. made a Funeral Oration in the commendation principally of the party deceaſed, but touching the worthy acts alſo of thoſe his Predeceſſors, whoſe Images were there preſent. The Oration being ended, the corps was in old time carried home again in manner as it was brought forth.

a Suet. C. Jul. Cæſar. c. 6.

Sedibus hunc referente ſuis & conde ſepulchro.

But afterward by the law of the twelve tables, it was provided that no man beſides the Emperour and Veſtal Nuns ſhould be buried within the City, though ſome upon eſpecial favour have obtained it. The manner of their burial was not by interring the corps, as in former times it had been, but burning them in a fire, *b* the reaſon thereof being to prevent the cruelty of their enemies, who in a mercileſs revenge would at their conqueſts dig up the buried bodies, making even the dead alſo ſubjects of their implacable wrath. This fire before the burning was properly called *Pyra*; in the time that it burned, it ws called *Rogus*, *c quod tunc temporis Rogari*

b Salmuth. in Panciro l. 1. rerum deperdit. de exequiis.

c Serv. Æn. 5.

Rogari solerent Manes; after the burning then was it called *Bustum, quasi bene ustum.* This *Pyra* was alwayes built in form of a Tabernacle, as it is above more at large to be seen; whither after the dead man had been brought, his friends were wont to cut off one of his fingers, which they would afterward bury with a second solemnity. The charges at Funerals growing by this means to be doubled, the law of the 12 Tables provided in these words, *Homini mortuo ossa ne legito, &c.* that no mans finger should be cut off, except he died either in the War, or in a strange Country. Where we must observe, that *lego* in this place doth signifie as much as *adimo* or *aufero*, in which sence we call him *sacrilegium, qui legit*, i. e. *qui adimit & aufert sacra.* After the dead body had been laid upon the *Pyra*, then were his eyes opened again to shew him Heaven, if it were possible: [d] and withall an half-penny was put in his mouth, they superstitiously conceiting that that half-penny was *naulum Charontis*, the pay of *Charon* the supposed Ferry-man of Hell, who was to carry mens souls in his boat over the *Stigian* Lake after their decease. About this *Pyra* were many boughs of Cypress trees to hinder the evil sent of the corps to be burned. The dead body being thus laid upon the *Pyra*, the next of the kin turning his face averse from the *Pyra*, did kindle the fire with a Torch: After this, commonly certain Fencers hired for this purpose did combate each with other, till one of them was killed, they were termed *bustuarii* from *bustum.* The blood of those that were slain, served instead of Sacrifice to the infernal Gods, which kind of Sacrifice they termed *Inferiæ.* [e] *Inferiæ sunt sacra mortuorum quæ inferis solvuntur.* Anon after the body had been burned, his neerest friends did gather up the ashes and bones, which being washed with milk and Wine, were put into certain Pitchers called *urnæ* whence this word *urna*, is often used by the Poets, to sign. fie a Grave or Sepulchre, as

——*Una requiescit in urna: Ovid. Met. lib. 4.*

*Vid. sup. p. 30.

d Alex. Genealex. l. 3.

e Servius.

Though properly *sepulchrum* was in old time a vault or arched roof, round about the Walls whereof were placed certain coffins called *loculi*, within which those former *urnæ* were laid up and kept, namely, two or three in each coffin. Now these Funeral solemnities were commonly towards night, insomuch that they used torches; these torches they properly called *g funalia a funibus cera circumdatis, unde & funus dicitur.* *h* Others are of opinion, that *funus* is so said from the Greek word φόνος, signifying death or slaughter. The bones of the buried body being thus gathered up, then did the Priest besprinkle the company with clean water thrice, and the eldest of the mourning women called *Præficæ*, with a loud voice pronounced this word *Ilicet*, thereby dismissing the company, (the word signifying as much as *Ire licet*;) Then presently did the company depart, taking their farewel of the dead body in this form of words: *Vale, vale, vale; nos te ordine quo natura permiserit sequemur*, If any of these ceremonies had been omitted, *i* then was it termed *sepultura insepulta*, in the same sense as *nuptiæ* formerly were termed *innuptæ*. The old and aged men were invited, after the burial, to a feast, or Funeral bankquet, called *silicernium k quasi silicanium*, i.e. *cænus supra silicem posita*, their custom being to eat that feast upon an Altar of stone; and because this feast was only eaten at Funerals, and by the elder sort, *l* hence figuratively this word *silicernium* doth sometimes signifie an old cripple, ready for the grave. The poorer people instead of a feast, receiv'd a dole or distribution of raw flesh: this dole was termed *Visceratio*. Moreover, there was a potation or drinking of Wine after the burial, called *Murrata*, or *Murrhina potio*, which afterwards the law of the 12 Tables for the avoiding of expenses did prohibit, as likewise for the moderating of grief in the mourners; it did prohibit the use of this word *Lessum*, [*Nove lessum funeris ergo habento*] for that word was often ingeminated in their mourning as a doleful ejulation, or note of

f Rosin. ant. l. 5.

g Servius. in Æneid. l. 1.
h Hub. in Cic. ep. fam. l. 4.

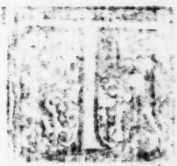
i Hiero. Ferarius. in Cic. orat. Philip.

k Servius. in Æneid. l. 5.

l Asresig. in Ter. Adelph. Act. 4.

of inward sorrow. This sorrowing or mourning was in some cases utterly prohibited, in others limited; *m* namely, an Infant dying before he was three years old, should not be mourned for at all; because he had scarcely yet entred into this life. Elder persons were to be mourned for so many dayes as they were yeares old. Wives were permitted to mourn for their Husbands (*Alexander* adde th also children for their Fathers) ten months if they would, within which time the widow could not marry another Husband without infamy and discredit. *Polyd. de Inven. l. 6. c. 9.* Here we may with *Rovardus* observe a distinction between *Lugere* and *Elugere*; *Lugere* signifieth no more than to mourn some part of the time prescribed, *Elugere* to mourn the whole and full time.

m Alex. Gen. dier. l. 3. c. 7.



LIB.

LIB. II. SECT. III.

Of the Roman *Games.*

CAP. I.

De ludis Megalenſibus.

THe Playes uſually exhibited by the Romans, may be divided into three ſorts; ſome were *Ludi Sacri*, others *Honorarii*, others *Ludicri*. Thoſe were termed *Sacri*, which were inſtituted immediately to the honour of the Gods: ſuch were theſe that follow in their ſeveral Chapters. *Megalenſes ludi*, they are called ſimply *Megaleſia*, from the Greek word μέγας, ſignifying *Magnus* becauſe they were performed in the honour of *Cybelle*, called *Magna mater*: of which I have ſpoken formerly, and there alſo diſcovered the manner of this feaſt. Only here taken notice of that which is not mentioned there, namely, that theſe Games began *à pridie Nonas Aprilis*, i. e. on the fourth of *April*, and continued ſix dayes after, as appeareth by divers Authors, but more eſpecially by *Ovid*, who could not eaſily be corrupted, *Ovid. Faſt. lib.* 4. He having ſpoken of the riſing of the *Pleiades*, which is on the the ſecond of *April*, addeth,

Ter sine perpetuo cœlum versetur in axe,
Ter jungat Titan, terq; resolvat equos;
Protinus inflexo Berecynthia tibia cornu
Flabit, & Ideæ festa parentis erunt.

This I note, that the error crept into *a Livy* may be observed, who treating of the matter in hand, saith, *In eadem Victoriæ quæ est in Palatio, pertulere Deam pridie Idus Aprilis, isq; dies festus fuit: populus frequens dona Deæ in Palatium tulit; Lectisternium, & Ludi fuere Megalensia appellata.* That is, that these Playes were cellebrated upon the twelfth of *April*. But in the judgement of many Expositors, we are to read *Pridie Nonas* for *Pridie Idus*. Moreover, servants might not be spectators here. And because the *Prætors* did frequent these sports in their purple and best robes, *b* hence grew that Proverb *Purpura Megalensis*. To the younger sort at this time, liberty was granted to counterfeit all mens gestures and speeches, without distinction of degree or age. *c* They were sometimes termed *Ludi scenici*, though properly, *Ludi scenici* signified Stage-Playes, and were performed in the honour of *Bacchus*.

a Liv. l. 19.

b Ant. Const. in Ovid. Fast. l 4.

c Jul. Scalig. Poet. l. 1. c. 29.

CAP. 2.

Ludi Cereales.

THat these games were performed in the honour of *Ceres*, is by none doubted. In them was represented by the *Roman* Matrons, *Ceres* her lamentation for her daughter *Proserpina*, taken away by *Pluto*; the *Roman* men beheld these playes in white gowns: The women performed the sacred and holy Rites in a white garment also. Among whom it was observed, that then they thought their service grateful to the Gods, when it was performed by those that were joyful; and free from all funeral pollutions. At this time there was a solemn going in procession, and carrying about their Gods in the Cirque; this solemnity was properly called *Pompa*.

Circus

Circus erat Pompa celeber, numeroq; Deorum,
Primaq; vento ſis palma petetur equis;
Hic Cereris ludi, &c. Ovid. Faſt. lib. 4.

The manner of this ſolemn ſhew, which, as I noted, was properly called *Pompa*, is deſcribed *d* thus by its particulars; that there was *Simulachrorum ſeries, imaginum agmen, currus, thenſæ, armamaxæ, ſedes, coronæ, exuviæ*, i.e. Firſt, in this ſolemn proceſſion were carried about the Images of the Gods. Secondly, the Images of well deſerving men. Thirdly, Chariots led up and down for greater ſtate and magnificence; unto this *Virgil* alludeth:

Hic illius arma,
Hic currus fuit.

d Tert. de ſpect. c. 7.

Fourthly, Pageants, ſo I interpret *Thenſæ*, which were ſo called *quaſi tenſæ à tendendo*, as *e Aſconius* noteth, becauſe they were carried up and down, by the help of certain ropes, which to touch they counted a point of Religion. Fifthly, horſe-litters; for that theſe *armamaxæ* were not Chariots, or Waggons, appeareth by him, *f Qui ex curru in armamaxam deponebatur*. They ſeem to have been of a compounded form, in part like Chariots, called ἅρμα, in part like Wains, called ἁμάξα, and thence ἁρμάμαξα, hath its appellation. ἁρμάμαξα, *inquit Phavorinus*, ἡ μὲν ἀνδρῶν νεὼς ἐφ' ἧς ἐκομίζοντο ἅρματα ὅσον ἅρμα καὶ ἅμαξα, ἢ ἀνδραμαξάνις ὅτι ἡ ἄγουσα τοὺς ἀνδρας. In which words, beſides the Etymologie expreſſed, the uſe thereof is declared to be for the carriage of men. That as chariots went empty for greater magnificence, and as in their Pageants were carried the *Simulachra Deorum*, according to that, *g Thenſæ Deorum vehiculum*: ſo in theſe Horſe-litters were carried men; or rather that ſame *agmen imaginum*, which was the ſecond particular. Sixthly, Chairs of State. Seventhly, Crowns. Laſtly, Spoils taken from their enemies. Theſe three laſt I take to have been uſed chiefly and principally in the *Roman* ſupplications, or publick thankſgivings for any great victory; the cuſtom being in ſuch ſhews, when they came to ſuch and ſuch remarkable

e Vid. Franc. Jun. annot. in Ter. de ſpect. It. de tenſis vid. Turneb. 25, 27.

f Herod. 17.

g Alex. ab Alex. l. 2. c. 32.

remarkable places in the Cirque, to pitch a certain chair adorned with Crowns of Victories, and ſpoils taken from the enemy reputing it not the leaſt office, *h* thus to honour their Emperour, though abſent, with the prerogative of ſuch a Chair. Now in the preparation to this particular ſhew, we read, that an egge was eſpecially provided. It is obſerved by *i* many out of *Macrobius*, whoſe words are; *Ovumq; in Cerealis Pompæ apparatu numerabatur primum.* The obſervation is general, but the reaſon thereof, *Inter arcana Cereris*, quite ſuppreſſed, and by none that ever I could meet with yet explained: if my conjecture may ſatisfie in a matter ſo obſcure, conceive it thus: Theſe pompous ſhews were various, and in the honour of divers Gods, and accordingly the *Romans* made choice in every ſuch ſolemnity, of ſome one principal thing in their ſhew, unto which the glory of the preſent ſolemnity ſhould in a more eſpecial manner belong. Thus in the *Pompa Circenſes*, which was celebrated in the honour of the *k* Sun, great horſes were led up and down for greater ſtate; *l Quia equis, & equeſtribus exercitamentis ſol præeſſe credebatur ſuperſtitione antiquiſſima.* Hence the Cirque-place it ſelf was called τὸ ἱππικὸν, and ἱπποδρόμιον. After this ſame manner in this *Pompa Cerealis* (which was alſo ſometimes called *Circenſis*, from the place where it was exhibited) an egge was chiefly and principally provided: for ſeeing that under the name of *Ceres*, this ſolemnity was performed to the *Earth*, how could the *Earth* be more honoured, than by bearing about the Hieroglyphick of the whole World? as if they did intimate thereby, that even Heaven it ſelf was beholden to the *Earth.*

h Vid. Iſaac. Cauſab. in Sueton. Jul. c. 76.

i Hoſp. de orig. feſt. Roſin. l. 5. c. 14. Alex. ab Alex. l. 6. c. 19.

k Solis honore novi grati ſpectacula Cerei Antiqui ſanxere patres. Corrip. Afric. l. 1. c. 17. vid. Dempſt.

l Franc. Jun. annot. in Ter. de ſpect. c. 8.

——*Pecori frondes; alimentaq; mitia fruget*
Humano generi, vobis quoq; thura miniſtro. Ov. Met. l. 2.

And ſuch an Hieroglyphick *m Cœlius Rhodiginus* proveth an egge to be, partly from its circular and Globe-like form, partly from the matter whereof it conſiſteth; the hard ſhell reſembling the ſolid earth; the more ſpiritu-

m Cœl. Rhod. l. 27. c. 17.

ous part thereof, the air; the moist and liquid part, the water; the yolk, the element of fire; yea, he noteth also, as there is *n mundo*, so likewise, *in ovo vis vitalis*, a kind of quickning and enlivening power in both. Otherwise if this opinion give not content, we may interpret the carrying about of the egge, to be in the honour of *Castor* and *Pollux*: for as there were marks, or goals in the Cirque, some in the form of *Dolphins*, in the honour of *Neptune*; so there were others *n* ἀεὶ δὴ δημιουργήματα, marks of a long roundness in form of an egge, in memory of *o Castor* and *Pollux*, which were *ovo editi*, according to that of *Horace*;

n Dion. l. 49.

o Tertul. de spect. c. 8.

Ovo prognatus eodem. Hor. serm. 2. Sat. 1.

For the same reason haply it was, that an egge was at this time carried up and down, as the chief and principal Ensign.

CAP. 3.
Ludi Florales.

THese games or sports were instituted in the honour of the Goddess *Flora*, that she being therewith appeased, the earth might bring forth flowers and fruits in great abundance. Of the Goddess it hath been spoken before. The time of the year when these sports were observed, *p* was upon the four last days of *April*, and the first of *May*, whence is that of *Ovid. Fast. 5.*

p Alex. ab. Alex. l. 6. c. 8

Incipis Aprili, transis in tempora Maii;
Alter te fugiens, cum venit alter, habet.

The manner thereof was, that shameless strumpets did then run up and down the streets naked, using many lascivious and obscene gestures and speeches: they were called together by the sound of a Trumpet, unto which *Juvenal* alludeth,

Dignissima prorsus
Florali matrona tuba.

Moreover, whereas in other games, Bores, Lions, and Bears were

were publickly baited to recreate the ſpectators; here oneſly Goates and Hares, and ſuch milder beaſts were hunted, becauſe the Goddeſs *Flora* had not the cuſtody of Woods and Forreſts, where the wild beaſts ranged, but Gardens and Meadows. At this time alſo Elephants were brought forth into the publick view of the people, which were taught *r* to walk on ropes; and that there is an aptneſs in Elephants to go forward and backward on ropes, *ſ Pliny* teſtifieth.

q Hoſ. de orig. feſt.

r Suet. in Ga'.
ſ Plin. l. 8. c. 3.

CAP. 4.
Ludi Martiales.

OF theſe ſports there is not much ſpoken: *t* they were obſerved upon the firſt of *Auguſt*, becauſe on that day the Temple of *Mars* was conſecrated. They were firſt inſtituted *u* by *Numa Pompilius*.

t Dion. l. 60.

u Tertul. de ſpect. c. 5.

CAP. 5.
Ludi Apollinares.

THere was an ancient Poet called *Martius*, * out of whoſe writings, as likewiſe out of the *Sybilline* Oracles, the Romans were admoniſhed to dedicate certain Games to *Apollo*. At the firſt celebration of them, *x* it is reported, that a ſudden and unexpected Invaſion of Enemies inforced the Roman people to forſake their ſports, and to betake themſelves to weapons: in which time of their deſtruction, a Cloud of Darts and Arrows was ſeen to fall upon their Enemies, ſo that they preſently returned Conquerors unto their ſports, where *y* at their return they found one *C. Pomponius*, an old man, dancing to a Minſtrel, and being very joyful, that their ſports had been continued without interruption, they cryed forth, *Salva res eſt, ſaltat ſenex.* Which ſpeech after became proverbial, and is fitly uſed, when a ſudden evil, is ſeconded with a good event, beyond hope or expectation.

* Liv. lib. 5. dec. 3.

x Macrob. l. 1. Sat. c. 17.

y Suet. Pom. Feſt. vid. Hoſp. de origs

CAP. 6.

De ludis Romanis, qui & magni, & Consuales, & Circenses dicti.

THese solemnities are sometimes called *Romani ludi*, because of their antiquity amongst the *Romans* being first instituted by *Romulus*; sometimes *Magni ludi*, either because of the great charge and expence of money at that time, or because they were performed in the honour of their great God *a Neptune*, called also *Consus*, because he was reputed the God of secret *Counsels*, whence the solemnities themselves are sometimes called *Consualia*: whereas many of the *Roman* Temples for certain mysterious significations, had their peculiar manner of building, *b Servius* noteth that the Temple in the great Cirque, dedicated to *Consus*, was covered, to signifie that Counsels must be secret and concealed. Likewise for the same reason, *c* his Altar was made under the earth not appearing in publick view, save onely in the time of these solemnities exhibited. The chief ceremonies used at this time, consisted in the adorning of their Horses and Asses with garlands, wherein they thought that *Neptune* was honoured, who was the first Author and inventor of horse-riding: hence *Neptune* himself is called Ἵππιος. This festival was first instituted by *Evander*, in the honour of *Neptune*, under the name of Ἵππιος, and *e* thence the feast was called ἱππικεσία. Afterward it was renewed by *Romulus*, in the honour of *Neptune* likewise, but under the name of *Consus*, because *Romulus* needed a God of Counsel to assist him in that designment of his, for the violent taking away of so many *Sabine* women, as were taken away at the first celebration of these games. The reason of *Romulus* his institution of them, being no other, but that upon the fame of these new sports, many *Sabine* women flocking thither to be spectators, his project might be the sooner effected. These and the Cirque-

a Tert. de spect. c. 5.

b Serv. in Vir. Æn. l. 8.

c Alex. ab. Alex l. 5. c. 26.

d Vid. Said

e Dion. Hal. lib. 1.

new,

ſhews, ſo often mentioned in ancient Authors, at firſt were all one, as appeareth by that of *f Valerius*. *Ad id tempus Circenſi ſpectaculo contenta erat civitas noſtra, quod primus Romulus raptis virginibus Sabinis Conſualium nomine celebravit.* Touching theſe Cirque-ſhews, ſome are of opinion, that they were performed in the honour of *Ceres*; this *Julius Scaliger g* diſliketh, and he is of opinion, they were celebrated in the honour of *Neptune*: others are of opinion they were inſtituted in the honour of the *Sun*. All opinions may be reconciled, if we underſtand firſt, thoſe Authors who aſcribe theſe Cirque-ſhews to *Ceres*, to ſpeak of the *Cerales Ludi*, which we read ſometimes to be called *Circenſes*, becauſe they were exhibited in the Cirque. Secondly, if we diſtinguiſh the *Pompa Circenſis*, from the *Circenſes Ludi*, and from the *Cereales ludi*: the *Cereales ludi*, were inſtituted in the honour of *Ceres*; the *Circences ludi*, in the honour of *Neptune*; the *Circenſis Pompa* in the honour of the Sun. And furthermore for the full underſtanding hereof, we muſt know that the horſes brough into the Cirque at this time, were of two ſorts: ſome were only κομπικοι, ſuch as were led up and down for ſhew and ſtate; I underſtand *Alex. ab Alex.* to ſpeak of theſe horſes, when he ſaith *h* horſes were conſecrated to the Sun: nay I underſtand thoſe horſes mentioned 2 *Kings* 23. to have been of the like ſuperſtitious invention, where it is ſaid that *Joſiah* did put down the horſes given to the *Sun* and the *Chariots of the Sun*. That practice I ſay, hath near affinity with this of the *Romans*, but I think it to have been originally derived to the people of *Judah*, from the *Perſians*, who alſo accounted them holy to the Sun; *i* and the *Perſian* King when he would ſhew himſelf in great ſtate, cauſed an exceeding great horſe to be led up and down, which was called *Equus Solis*. Other horſes were for exerciſe and race, we may call them *Sequuxus*: the inſtitution of theſe I ſuppoſe to have been in the honour of *Neptune*. The prizes of maſteries exerciſed in time of this Cirque-ſhew were many; fencing, and

f Val. Max. lc. 4.

g Jul. Scal. l. poet. c. 32

h Alex. ab Alex. l. 3. c. 12

i Cœl. Rhod. ant. l. 8. c. 2.

and that untill one of the combatants were killed in the place; fighting with beasts; wrestling, running of races on foot: jumping, and leaping, horse-racing; sea-skirmishes exhibited in some river: coach-races, and fighting at whorlebats. Howsoever the nature and manner of these games are in some measure understood by the very names; yet a more large discourse concerning the two last, will be very behoveful, for the more full understanding of the *Roman* history. These coach-races, when this manner of race was first instituted, were divided into two companies, which they termed, *Factiones albas & russeas*, distinguishing each faction or company by the different colour of their coates. Afterward they were divided into four companies distinguished alwayes by their colours, whence came that distinction, *Factiones Prasina, Venetæ, Russatæ, Albatæ* which colours may thus be Englished: The first signifying a deep green: the next a kind of russet inclining to red: the third a Venice blew, or Turkey colour, and the last a perfect white. Of these *l Tertullian* speaketh as followeth, *Aurigis coloribus idololatriam vestiunt, & ab initio duo soli fuerunt, albus & russeus. Albus hyemi ob nives candidas, russeus æstati ob solis roborem voti erant: sed postea tam voluptate, quam superstitione provecta russeum alii Marti, alii album Zephyris consecraverunt: Prasinum vero terræ matri, vel verno: Venetum Cœlo & mari, vel autumno.* As the Emperour, so the people sometimes favoured one faction or company, sometimes another: and accordingly as they favoured the company, they would lay wagers on their side, which wagers they termed by a peculiar name *Sponsiones*; thus *m Turnebus* interpreteth *Tertullian*, where he saith, that the people flockt to these races, sometimes for one reason, sometimes for another, but sometimes *n Sponsionibus concitatus, i.e.* stirred up with a desire of betting, or laying wagers. To these four *o Domitian* in his time added two other companies, the one wearing cloth of gold, the other of purple; but these latter remained not long in use. Their fighting at whorlebats they

k Fen. Salm. in Pancir. c. de Cir. max.

l Ter. de spect. cap. 9.

m Turneb. ad l. 8. c. 4

n Tertul. de spect. c. 16.

o Suet. in Domitian c. 7.

they termed *bellare ceſtu*. The manner of the fight conceive thus; the combatants had in each hand a ſtrap of leather, which each ſtruck at the other (for we muſt know, that this kind of fight ſucceeded fiſticuffs; and becauſe in fiſticuffs the party ſtriking, did by the blow as well hurt his own fiſt, as he did him that was ſtrucken, hereupon they invented this other kind of fight with leathern ſwitches) theſe leathern ſwitches they called *Ceſtus*, from the Greek κεστὸς, ſignifying a belt or girdle; to make the fight more dangerous, they did in after-times tye peices of Lead, or Iron, at the end of theſe Leathern ſtraps, ſo that they did with the force of the ſtroak, often daſh out one anothers brains; and becauſe by the weight of the Lead or Iron, the ſtrap might chance to fly out of their hands, they cauſed each ſtrap to be tyed faſt to their arms and ſhoulders; neither was this without reaſon; for thoſe Iron or Leaden peices could not be but very weighty, being made in the bigneſſe and *q* form of Rams Homes. Laſtly, theſe Cirque ſhews had their appellation *Circenſes*, either from the great Cirque, or ſhew-place, called *Circus Max.* where the games were exhibited; or from the ſwords wherewith the players were environed, as one would ſay *Circa enſes*. They much reſembled thoſe Grecian games called *certamina Olympica*, where the runners with Chariots were hemmed in on the one ſide with the running river, and on the other with ſwords pitched point-wiſe, that they ſhould hold the race on directly and not ſwerve aſide without danger. * Some have thought them to be the ſame with *ludi Gymnici*, ſo called from γυμνὸς, naked; becauſe that thoſe which did perform thoſe kindes of exerciſes, did either put off all, or the greateſt part of their cloaths, to the intent that they might the more readily and nimbly perform their games; for which purpoſe they did alſo anoynt their bodies with oyle; whence we ſay, when a man hath loſt his coſt and labour, *Operam & oleum perdidit*; *oleum* in this place ſignifying coſt and charges;

p Jul. Scal. lib poet. c. 22.

q Aldus. Manut. l. 2. de queſt. per epiſtolam, ep 8. vid. Roſin. ant. l. 5 c. 5.

* Roſin. ant l. 5. c. 5.

ges: so that the proverb was the same with that of the Coblers Crow, *Opera & impensa periit.*

CAP. 7.

Ludi Capitolini, & Agones Capitolini:

THe first institution of these games *r Livy* sheweth, where likewise, he intimateth the reason why they were called *Capitalini*, to have been in the honour of *Jupiter Capitolinus*, because he preserved the *Capitoll*, when it was assaulted by the *Gauls*: we must distinguish these games from those other shewes called *Agones Capitolini*, instituted by *Domitian*: For those *Ludi* were exhibited yearly, *s* these *Agones* every fifth year: In those was celebrated the deliverance of the *Capitol*: In these Rhetoricians, and Poets, and men of other professions contended for the victory: and hence *t Rosinus* thinketh the *Poets laureat* to have taken their beginning. He is likewise of the opinion that *Juvenal* alludeth unto these solemnities,

r Liv. dec. 1. & lib. 5.

s Sueton. in Domit. c. 4.

t Rosin. ant. l. 5. c. 18.

——— *Sed cum fregit subsellia versu,*
Esurit intactam Paridi nisi vendat Agaven. Sat. 7.

Although the allusion may be granted, yet herein I think *Rosinus*, though otherwise learned, to have been mistaken, in interpreting *Fregit subsellia*, by *Non stetit*, *Excidit*, or *Non placuit*: as if the Poet, of whom *Juvenal* speaketh, had been conquered at this time. In my opinion neither will the purpose of *Juvenal*, nor that phrase of speech admit that construction. Nor the purpose of *Juvenal*; for the scope and drift of that Satyre, is to shew, that be the Poet never so pleasing, or let him give full satisfaction to the people, yet he shall receive no benefit thereby, but a vain and empty applause, so that he shall be compelled to sell those very Poems which are received with so general an approbation, to buy victuals, and prevent hunger. Neither doth that interpretation agree with that phrase: for *Frangere subsellia*, doth rather on the

the contrary, signifie the vehement acclamation given by the people in approbation of the Poem, it being a poetical elegancy, to express the vehemency and greatness of the applause. *u Sidonius Apollinaris* useth the self same phrase. *Hunc olim perorantem, & rhetorica sedilia plausibili oratione frangentem, socer eloquens ultro in familiam ascivit.* Neither is that of *Virgil* unlike.

u Sidon Ap. l. 5. epist ad Sapand.

Et cantu querelæ rumpunt arbusta cicadæ.

Yea the *Græcians* us'd the same manner of speech, *x* κατεῤῥήσνυτο πάς ὁ τόπος, ὑπὸ τοῦ Κρότου, καὶ τῆς κραυγῆς. So that hereby I think the Poet understandeth, that *Grande sophos*, so often mentioned by *Martial*, it being a usual custome amongst the *Romans*, to signifie their approbation of the Oratour or Poet, by the loud acclamation of σοφῶς, or ὀρθῶς. Unto which *Horace* alludeth *de arte poet.*

x Polyb. in hist. 15.

——*Clamabit enim pulchrè, benè, recte.*

But to return whence we have digressed, these latter solemnities were of such note, that whereas the *Romans* formerly, made their computations of their greater year, called *Annus magnus*, by their *lustra y* now they made it by these *Agones capitolini*. Again, we must distinguish these *Agones quinquennales* instituted by *Domitian*, from those *Ludi quinquennales* instituted by *z Augustus Cæsar*, in memory of the Victory, which he got against *Antonius*, upon the promontory *Actium*, whence they were called *Actiaci Ludi*.

y Hospin. de orig. fest.

z Sueton. Aug. cap. 18.

CAP. VIII.

De ludis sæcularibus.

AUthors agree not upon the just period of time, when these secular names were to be renewed; some are of opinion, that they were to be celebrated every hundreth year; some every hundreth and ten, some once only in three hundred: but in this all agree, that they were named *sæculares*, from *sæculum* which signifieth at least

Herodian. lib. 3 in vita Severi.

a Rosin. antiq. l. 5. c. 21.

least an hundred years, *a saeculum in centum annos extendi existimabant.* Because the full and compleat age of a man, might extend it self to the hundreth year, and seldom to many above an hundred: thence it was, that the form of words used by the publick cry in proclaiming these Games

b Pol. Virg. de invent. l. 8. c. 1.

was, *b Venite ad Ludos quos nemo mortalium vidit, nec visurus est.* Unto which *c Ovid* alludeth, *Trist. l. 2.*

c Ov. Trist l 2.

Carmina ——

Jusserat & Phœbo dici, quo tempore Indos
Fecit: quos ætas aspicit una semel.

But the Emperours being ambitious of honour, and desirous to be spectators of the Games in time of their own reign, they did often anticipate the time. *Claudius Cæsar* amongst

d Alex. ab. Alex. l. 6. c. 9.

the rest, proclaimed them within *d* sixty three years, after *Augustus* had observed them, which occasioned the people to deride his cryer, inviting the people to those shews and sports, which no man living either had seen, or

e Suet Claud. c. 21.

should see again. Because *e* some who were spectators, nay actors in those solemnities exhibited by *Augustus*, lived at the same time, when *Claudius* caused this to be proclaimed. These Playes were also *f* called *Tarentini ludi*,

f Hospinian. de orig. fest.

not from the City *Tarentum* in great *Greece*; but from a certain place of the same name near *Rome*, adjoyning to the river *Tiber*. All the Theatres at this time were filled, and sacrifices offered throughout all the *Temples*, for the space of three dayes, and three nights, which giveth light to that of *Ausonius*.

Trina Tarentino celebrata trinoctia ludo.

The first day the Emperour, and the *Quindecem viri*, early in the morning ascended the *Capitol*, and their offered sacrifice according to the wonted manner: thence they departed to the Theatres, to perform solemn Playes in the honour of *Apollo* and *Diana*. The second day the noble Matrons assembled together in the *Capitol*, they offered up supplications unto their Gods, they fasted and sung hymnes in the honour of the Gods. The third day seven and twenty Boyes, going along three and

three,

three, and as many Maids in like manner, all of them nobly descended, and having both Father and Mother alive, sung verses: in which they commended the *Roman* State, to the protection of the immortal Gods. This was termed *Pæanas concinere*, which word *Pæan*, though it signifieth primarily an hymn, or song of praise made to *Apollo*, who was called *Pæan*, *g* from πατέω, *à feriendo*, because of his Victory gotten of the *Python*; yet *h* sometimes, and so in this place, it denoteth the praises in general of all the Gods. Again, the phrase intimateth an elevation of the voice in singing, with a kind of rising from one note to another. Thus *Turnebus* maketh παιανίζειν, and μινυρίζειν to be opposite, *i Videtur autem Pæan contentionis vocis esse, minuritio remissionis.*

g Cæl. Rhod. antiq. l. 7. c. 5.
h Servius in Æn. lib. 6.
i Turneb. adv. l. 1. c. 12.

CHAP. IX.

De ludis plebeiis, compitalitiis, Augustabilibus Palatinis, Taurilibus, & Votivis.

OTher Games there were performed in the honour of the Gods, which are rather named by Authors then explained, they are these that follow; *Plebeii ludi*, *k* which were celebrated in memory of the liberty procured to the *Roman* state, by the succession of Consuls in the place of Kings: or as others say, in memory of the reconciliation, wrought between the Senators, and the Commonalty, by reason of their great oppression at that time, when the *Commons* in a kind of mutiny, departed to the *Aventine* Mount. 2. *Compitalii Ludi*, so called, because they were usually solemnized in *Competa* (*id est*) in the cross wayes, and open streets, *l* they were first ordained by *Servius Tullius*, in the honour of those Gods, whom they termed *Lares*, in memory of his nativity. The form of words used by the *Prætor*, when he signified to the people the time of these solemnities, was as followeth. *m Die noni post Calendas Januarii Quiritibus compitalia erunt.* Concerning which words, *Gellius* noteth, *Die no-*

k Alex. ab Alex. l. 6. c. 19.
l Plin. lib. 36. cap. ult.
m Macrob. l. 1. Satur.

n A. Gel. noct. At. l. 10. c. 24.

ni Prætor dicit, non die nono, neq; Prætor ſolum, ſed plæraq; omnis vetuſtas ſic locuta eſt. 3. *Auguſtales ludi*, performed in the honour of *Auguſtus Cæſar*. 4. *Palatini ludi*, ſo named, becauſe they were performed in the *Palatine* Mount. Some are of opinion, that they were inſtituted in the honour of o *Julius Cæſar*; others in the honour p of *Auguſtus*. 5. *Taurii ludi*, which received their name from *Taurus*, a Bull: They were firſt ordained by q *Tarquinius ſuperbus*, when there hapned a great Peſtilence amongſt the women with child, occaſioned by much Bull-fleſh ſold unto the people; for the removal of which Plague, theſe Games were inſtituted, in the honour of the infernal Gods. They are ſometimes alſo called *Boalia*, & *Bupetii*. 6. To thoſe may we add their *Votivos ludos*, which were alſo performed in the honour of ſome God, upon ſome ſpecial vow made; For whenſoever the *Romans* did undertake any deſperate war, then did ſome *Roman* Magiſtrate *Vovère ludos, vel templa*, conditionally that they got the conqueſt; whiles the Magiſtrate uttered this his vow, he was ſaid, *Vota nuncupare*, or *facere vota*, (*id eſt*, to make a ſolemn vow unto the Gods; the vow being thus made, he which made it, did write it in paper, and with wax faſtened it to the knees of their Gods, thereby binding himſelf the more ſtrongly to the performance; and this in *Pliny's* Phraſe is, *ſignare vota*, *Juvenal* tearmeth it,

o Alex. ab Alex. l. 6. c. 19.

p. lib. 56. cap. ult.

q Feſt. vid. Hoſpin. de orig. feſt.

Genua incerare deorum, Satyr. 10.

r Turneb. adver. l. 1. c. 17.

After this, he was ſaid to be *Votivus*, *id eſt*, conditionally bound and obliged to the performance thereof, ſo that the Gods might challenge the thing vowed as due debt, if they granted his requeſt, yea after that, the thing craved had been obtained, then was he ſaid, *Damnatus voti*, *vel voto* (*id eſt*) ſimply bound to the performance of the vow, ſo that by conſequence, *Damnari voti*, *vel voto*, is to have ones deſire accompliſhed. Thus have we gone over the chief and principal Games, which were meerly *Sacri*, tending to Religion; the ſecond ſort were, *Ludi honorarii*, of which in the next Chapter.

CAP.

CAP. X.

De Gladiatura.

Such Sports and Playes, which were performed by private men upon their own purſe and charges, they ſeeking thereby to wind themſelves into the affections of the common people, and to make way for their own preferment and honour, were termed *a Ludi honorarii*, and howſoever any Game or ſhew might be tendred unto the people in this reſpect, yet thoſe of this nature, were for moſt part, either *Fencing*, or *Stage-Playes: Fencing*, becauſe the ſight thereof was ſo often freely beſtowed upon the people, is therefore many times denoted by the latine word, *b Munus*; and thoſe that beſtow theſe ſights, are for the ſame reaſon tearmed *Munerarii*. The firſt original of this fencing, and ſword-playing, to the killing of one another, hath been derived *c* from a cuſtomary practiſe among the Heathens, at the burials of their friends, who being perſwaded that the ſhedding of mans blood would be propitiatory for the ſoul deceaſed, hence would they buy captives and ſlaves, purpoſely to be ſacrificed at burials: afterward that this wicked ſpectacle might be the more pleaſant and delightfull, they changed their ſacrifice into a fencing with Art, where the combatants did fight for their life. This particular kind of *Fencers* were called *Buſtuarii*, from *buſtum*, the place where dead mens bodies were burned; but Ambition and Cruelty, made theſe bloody ſpectacles in after ages more frequent, inſomuch that prizes at laſt were plaid, not only at the Tombs, but in divers other places, as the *Cirque* and *Amphitheatre*, *&c.* Yea, they were given as Legacies by Will and Teſtament unto the people; the prizes have continued many days together, and the number of the Combatants ſometimes exceeded number. At the firſt none would thus hazzard their lives, but captives and fugitive ſervants, which were enforced

a Iſaac. Caſaubon. in Suet. Aug. 32.

b Lipſ. Sat. l. 1. cap. 7.

c Tertul. It. Servius in Æneid. 10.

ced thereunto, being bought for that purpose, afterward those that were free-born suffered themselves to be hired, for which cause they were termed *Auctorati* hirelings; *d* yea Noble Men themselves sometimes by reason of their decayed estates; sometimes to demerit the Emperour his love, endangered their lives in this fight, those that were hired, bound themselves by a solemn oath to fight unto death, or else they would yield their bodies to be whipt, yea and to be burnt; unto which *e Horace* alludeth:

d Sen. ep. 100.

e Serm. 27.

Quid refert, uri, virgis ferroq; necari
Auctoratus eas? an turpi clausus in arcâ?

The manner of this bloody spectacle was thus, the Master, or exhibiter thereof, did by a publick bill, give notice unto the people, what day the prize should be performed, how many couples were to combat, what their names, *&c.* thereby to procure the greater expectation and concourse of people, of this speaketh *f Sueton*, *Munus populo pronunciavit in filiæ memoriam.* *g* Yea they did in tables hanged in publique view, paint and represent, not only the description of the place, but also the very form and gesture of the Fencers.

f Sueton. in Iulio.

g Plin. 35. 7.

——*velut si*
Revera pugnent, feriant, vitentq; moventes
Arma viri. Horat. lib. 2. Sat. 7.

Upon the day appointed when all met, then were the weapons brought forth, and those, they were of two sorts: *Lusoria*, or *Exercitoria tela*, such as wear the spear, and wands, or cudgells, that they might tosse the one, and fence with the other, and shew other feats of activity, all being but preparations to that more solemn and dangerous fight ensuing. The Greeks calleth them ἐσφαιρωμένα ἀκόντια, because of the little balls tied to the sharp end of the weapons, to prevent dangers. Others were *h Decretoria tela*, so called *Quia hæc velut decreto Prætoris, sive Editoris dabantur.* These were those, with which they really encounter'd each other for life or death, and therefore sometimes they are called *Pugnatoria*, *i Seneca* speaketh

h Lipſ. Sat. l. 2 cap. 19.

i Senec. epiſt. 117.

eth of both, *Remove iſta luſoria arma, decretoriis opus eſt.* And that the Apoſtle doth not allude to both, I dare not gain-ſay, 1 *Cor.* 9.26, 27. where he ſaith, οὕτω πυκτεύω ὡς οὐκ ἀέρα δέρων, ἀλλὰ ὑπωπιάζω μου τὸ σῶμα. He did not beat the ayre, and flouriſh with thoſe luſorious, and preparatory weapons, but he did truly fight againſt his natural corruption, to the wounding and ſubduing of it; for *k* ſo ὑπώπια ſignifieth *putrified wounds.* That phraſe of *l Seneca's* alluding to the fore-flouriſhings, is not much unlike. *Aliud eſt ventilare, aliud pugnare.* This fore skirmiſh with cudgells was properly termed *præludium: Megara* ſpeaking of *Hercules* his Conqueſt over the two Serpents, aſſaulting him, being yet an Infant, ſaith, *m Præluſit Hydræ, id eſt*, that Combat was but the Prologue, Preface, or Introduction to that greater, which ſhould enſue between him and the *Hydra.* Afterward when they betook themſelves to naked weapons, and to a real fight, then were they ſaid *Dimicare ad certum*, and *Verſis armis pugnare.* This word *n Verſis* being put for *Tranſmutatis.* In the act of fighting, they did frame and compoſe their body according to the Rules of their art, for the better warding of themſelves, and the readier wounding of their adverſary. This frame and poſture of the body, was by a peculiar name called *Status*, or *Gradus.* Whence aroſe thoſe Elegant Metaphors, *Cedere de gradu, Demigare de gradu*: To change ones purpoſe, and as it were, to draw back from what he formerly intended. In like manner we ſay, *De mentis ſtatu dejicitur*, or *deturbatur*; He is driven to change his mind, or in general he is amazed. In the conflict oftentimes, the ſword-players after they had received any dangerous wounds, laid down the weapons, which though in extremity, was a token of cowardiſe, neither were they thereupon acquitted or diſcharged; but this depended upon the conſent either of the Emperour, or the people, or the Maſter of the ſhew. This diſcharge was properly called *Miſſio.* Such was the cruelty of thoſe times, that many prizes were proclaimed, wherein they fore-ſignified,

k Suid. in voce. ὑπώπια

l Sen. l. 3. cont

m Sen. Herc. fur. verſ. 231.

n Lipſ. Sat. l. 2. cap. 19.

ed, that such discharges should neither be craved, nor granted: whereupon *o Augustus Cæsar* made a decree, wherein *Gladiatores sine missione edi prohibuit*. Those Combatants that overcame, received by way of reward, sometimes Money, sometimes a Garland, or Coronet of Palm-tree, wound about with certain wollen ribbands, called *Lemniſci*; the Coronet it self was therefore called *p Palma lemniſcata*, and hence figuratively hath *Palma* been translated to signifie the Victory it self, and such a man as hath often gotten the prize, we say proverbially, that he is, *Plurimarum palmarum homo*. The reason why the Palm-tree, rather then any other tree, should be given in token of Victory, is rendred by *q* diverse approved Authors to be this; because the Palm tree, though you put never so ponderous and heavy weight upon it, yet it will not yield, but rather endeavour the more upward. Sometimes the reward given by the people, was one of those wands, or cudgels used in the fore-skirmish. That wand was properly called *Rudis*, and it was given in token of liberty, signifying thereby, that he should thence forward lead his life from shedding of blood, alluding to which custom, this word *r Rudis* hath been used to signifie any other kind of freedom or discharge. Whereupon, *Horace* said of himself, that he was *Rude donatus*, *id est*, discharged from his pains in poetry. Lastly, sometimes he that conquered, received *Pileum*, a Cap: And here it will not be amiss, to note the difference between *Palma*, *Missio*, *Rudis*, and *Pileus*. *Palma*, was onely a token of Victory, nor of Liberty or Discharge. *Missio* was not full discharge, but a kind of vacation, or respite granted upon request, untill the morrow, or some other time. Again, it was granted to those that were Conquered, not to the Conquerers. *Rudis* was a token of full discharge from bloody Combats, whereby a mans life might be endangered; but yet with this distinction, that if it were bestowed upon free Citizens, hired to be Actors in these Masteries, then were they thereby restored to their freedome

o Suet. Aug. 49.

p Franv Sylc. in rat. pro Sect. Rosc.

q Arist. prob. 7. Plut. symp. 8. q. 4. Alex. Gel. l. 3. c. 6.

r Eras. adag. Rudem accip.

dom alſo, which formerly they foreſeited by undertaking ſuch baſe conditions: to others which were formerly ſervants, or captives, it was only a token of liberty and diſcharge. Notwithſtanding, ſometimes upon favour ſuch ſervants or captives obtained together with their diſcharge from ſuch fights a privilege alſo of enfranchiſement, whereby they were thence-forward incorporated amongſt free Citizens: the token hereof was *Pileus*, for then they received a Cap; which latter obſervation helpeth for the underſtanding of *Tertullian*, where he ſaith, *ſ Qui inſigniori cuiq; homicidæ leonem poſcit, idem gladiatori atroci petat rudem, & pileum premium conferat.* In which ſpeech the unjuſt and unreaſonable practice of thoſe heathens is diſplayed whilſt they judge a man-ſlayer to be expoſed to Lions and wilde beaſts, and yet notwithſtanding will reward the bloodineſs of ſword-players. ſ Tertul. de ſpect. c. 21.

These Fencers fought with divers manner of Weapons, and accordingly had ſeveral names, the chief of which we read are theſe: 1. *Retiarii*, ſo called from *retejaculum*, ſignifying a ſhort-net uſed in fiſhing, becauſe this ſort of Fencers did fight with a caſt-net in one hand, to catch and claſpe about their adverſaries head; and a three-forked engine in the other, which they uſed inſtead of a ſword: of this *Juvenal* ſpeaketh, *Sat.* 8.

——— *Movet ecce tridentum.*

They did alwayes fight in their coats: whence the Epitheton floweth *retiarii tunicati*. The reaſon why they bore up and down Sponges, which *Tertullian* calleth *ſpongias retiariorum*, may be for the drying up of the blood, and wiping or ſtopping of the wounds, which uſe of Sponges, *t Pliny* noteth. Now becauſe theſe *Retiarii* were ſo lightly armed, they were compelled every time they ſtrook with their net, to retire back until they recovered their net again; and hence the ſecond ſort of Fencers which fought with them, were termed *u Secutores, ab inſequendo*, from following and purſuing theſe *Retiarii*. The weapons wherewith theſe *Secu-* t Plin. lib. 31. cap. 11. u Lipſ Sat. 2. cap. 7.

teres did fight, were a Target, to keep off the net of the adversary; a sword and an helmet. 3. *Thraces* so called from the *Thracian* Weapons which they used; their Target was round and little, called *Parma*: it was at first in use among the * *Thracians*, and afterward so proper to this sort of sword-players that, x *Parmularius* signifyeth such a one as favoured this company or faction of Fencers. Their sword was a crooked Falchion, termed by them *Sica*. The *Roman* Souldiers did use to wear two of these, a long one on the left side, and a shorter on the right side, answerable to our sword and dagger, but the form of the *Sica* was alwayes crooked, according to that, *Sica θερικὸν ξίφος ἐπίγαμμος*. Privy murtherers practising the killing of men, may seem to have used the lesser, as a pocket dagger, such are those *Sacarii*, of which there is such often mention in *Tully*. 4. *Myrmillones*, they are sometimes called *Galli*, because they were appointed after the manner of the *Gauls*. Their weapons were a Sword, a Targer, an Helmet with a crest in form of a fish. 5. *Hoplomachi*, the name imports them to be armed in their fight, it is derived from the Greek ὅπλον *vel* ὅπλα *arma*, & μάχομαι *pugno*: untill *Augustus* his time they were named *Samnites*; their armour was an helmet with a tuft on the crest, a sword, a shield, and a boot on the left leg. 6. *Provocatores*, sometimes called *Probactores*, these usually fought with the *Hoplomachi*; their armour was a sword, a targer, an helmet, and boots on both legs. For as the footmen amongst the souldiers, so likewise some of the sword-players used boots, for the safe-guard of their legs; these boots were made of * Iron, and so common amongst the Grecians in War, that boots alone are oftentimes put to express the Grecians whole Armature, as appeareth by that usual Epitheton in *Homer*, εὐκνήμιδες Ἀχαιοὶ i. e. *Bene ocreati Græci*; these boots they wore sometimes on both legs, sometimes on one, according as the manner of fight required. 7 *Essedarii*, such as fought & engained another out of waggons, so called from *Esse-*

* Turneb. adv. l. 5. c. 10.
x Suet. in Domit. c. 10.
y Alex. ab Alex. l. 6. c. 22.

* Veget. Vide Lip. de milit. l. 3. dial. 7.

dum, a waggon or chariot. 8. *Andabatæ, quasi* ἀν' ἁρμάτων *ascensores*, because they did fight on horse-back, or out of chariots. This sort of fencers did fight winking, whence ariseth that adage, *Andabatarum more pugnare*; the phrase is fitly used, when two ignorant persons are hot in contention about that which neither understandeth. 9. *Dimachærii*, called also *Orbelæ*, they fought each against the other, with two swords apeice, as the first name importeth. 10. *Laquearii*, such as fought with swords and halters, the use of the halters was the same as the *Retiarii* made of their nets, to cast about their adversaries neck or arm, that they might the easier wound them with their sword. Of all these sorts of fencers *l Lipsius* treateth largely, to whom I refer the Reader. Only here let him take notice, that it was in the power of the people to discharge, any of these Combatants in time of the fight, which discharge they signified *premendo pollicem*, by holding down their thumb, or else to adjudge him to continue the fight, though in never so great danger, and this latter they signified *convertendo pollicem*, by turning up the thumb;

l Lips. Sat. 2.

——*Et verso pollice vulgi*
Quemlibet occidunt populariter. ——*Juven. Sat.* 3

Moreover, that there might be alwayes in readiness a sufficient number of sword-players, hence were there schools erected, into which captives, fugitive servants, and notorious offenders, were sometimes condemned, sometimes sold. The masters of these schooles were called *Lanistæ*, the schollers or under-fencers, trained up there for more publick and dangerous fights, were called *Familiæ*. The word *Familia* is often taken in this sense, to signifie the whole company of under fencers, belonging to one school, and the master of defence, is for this reason, more than once by *m Sueton* called *Pater familias*. Moreover, when one challenged another to these combats, they signified their challenge by beckening with their little finger. *Horace* alludeth unto this.

m Suet. Calig. 25. It in Domit. 10.

Criſpinus minimo me provocat, accipe ſi vis
Accipe jam tabulas. Lib. 1. *Serm.* 4.

This muſt be underſtood of a beckening, and that with the little finger: for otherwiſe in time of the fight, if either of the combatants did hold up his finger, *n* he ſignified thereby that he did yield, and give place unto his adverſary; ſome think that *Perſius* had reſpect unto this cuſtom, in that phraſe

Digitum exere peccas, Sat. 5.

n Alex. ab Alex. l. 4. c. 26.

CAP. 11.
De ludis Scenicis.

THe ſecond ſort of Playes beſtowed on the people for their favour, were *Ludi Scenici*, Stage-plays. The reaſon of this name *ſcena* may be ſeen before. * The firſt inſtitution of them was occaſioned by reaſon of a great ſickneſs which by no medicinary help could be removed; The *Romans* ſuperſtitiouſly conceiting, that ſome new games or ſports being found out, the wrath of the Gods would thereby be unarmed. *y* Whereupon, about the four hundredth year after the building of *Rome*, they ſent for certain Stage-players out of *Hetruria*, which they called *Hiſtriones*, from the *Hetrurian* word *Hiſter* which ſignifieth ſuch a player. *Quia Hiſter Thuſco verbo ludus appellatur, id nomen Hiſtrionibus eſt inditum, Polydor. de inven. l.* 3. *c.* 13. Concerning the divers kinds of Stage-plays, I read of four called by the Grecians, *Mimicæ, Satyræ, Tragœdiæ, Comœdiæ*; by the Romans *Planipedes, attellanæ, Prætextatæ, Tabernariæ*; In Engliſh *Fables, Mimical, Satyrical, Tragical, Comical.* Theſe *Mimical* players did much reſemble the Clown in many of our Engliſh ſtage-plays, who ſometimes would go a tip-toe in deriſion of the mincing dames; ſometimes would ſpeak full mouthed to mock the Country Clowns; ſometimes upon the tip of their tongue to ſcoff the Citizen. And thus, by the imitation of all ridiculous geſtures or ſpeeches, in all kinds

* Lazius. de Repub. Rom. l. 10. c. 11.

y Alex. Gen. dier. l. 6. c. 19.

kinds of vocations, they provoked laughter; whence both the Plays and Players were named *Mimi*, from μῖμος an imitator, or one that doth Ape-like counterfeit others; as likewise they were called *Planipides*, because the Actors did enter upon the Stage *planis pedibus*, i. e. *z Excalceati*, barefooted. The second sort of Playes were called *Satyræ*, *a* from the lascivious and wanton country Gods called *Satyri*, because the Actors in the *Satyrical* Plays did use many obscene Poems, and unchast gestures, to delight their spectators. After these kind of Actors, as we may conjecture, did assume such liberty unto themselves, that they did freely and without controlement sharpely tax and censure the vices even of Kings as well as of the Commons, insomuch that now we call every witty Poem, wherein the lives and manners of men are sharply taxed, *A Satyre*, or *Satyrical* Poem. *b Satyra mordax fuit & salsum genus carminis.* These Satyrical Plays were also called *Atellanæ*, from the City *Attella* in *Campania*, where they were often acted. The third sort of Stage Playes were called *Tragœdiæ* from τράγος a Goar, and ᾠδή, an Ode or Song, because the Actors thereof had a Goat given them as a reward. And likewise they were called *Prætextatæ* from *prætexta*, a certain Roman Robe, which these Actors did use to wear in their Plays. The fourth sort were *Comœdiæ*, κῶμαι which signifieth villages, and ᾠδή, because these kind of Actors did go up and down the Country, acting these *Comedies* in the Villages as they passed along. They were likewise called *Tabernarii à tabulis*, i. e. from the boards or pentices wherewith they were sheltered from the weather whilst they were acting. These two last sort of playes, namely, *Tragedies* and *Comedies*, being still in use among us, it will be worth our labour to consider the communities wherein they agree; otherwise the properties or notes of distinction by which they differ. I find three sorts of parts, wherein they agree, namely *partes primarii, accessoriæ circumstantes*; parts principal, accessory, and circumstances

z Alex. ibid

a Antesign in suis obser. de metris Comicis Ter. præfixis.

b Vid. Eras. adag. Κωμῳδεῖσθαι σατυρικοῖς.

cumſtances, which are not ſo truely parts as accidential ornaments added to beautifie the Playes. The principal parts are four in reſpect of the matter treated of; for as far as the declaration or expoſition of the matter in hand reacheth, without intimation of the event to enſue, ſo far reacheth the firſt part called πρότασις, which word ſignifieth no more than a propoſition or declaration. But when the Play inclineth to its heat and trouble, then enſueth the ſecond part called ἐπίτασις, which ſignifieth the intention or exaggeration of matters. The third part is called κατάστασις, *i.e.* the ſtate and full vigour of the Play. The laſt part, which is an unexpected change into a ſudden tranquility and quietneſs, is ſo called κατάστροφή; whence by a *metaphor* it hath been tranſlated to ſignifie the end or period of any other thing, or rather the inclination unto the end, as *vitæ humanæ cataſtrophe*, the end of a mans life. In reſpect of the Players forſaking the Stage, the parts were five, namely the five Acts. For the Actors did five times in every *Comedy* and *Tragedy* forſake the ſtage, and make as it were ſo many interruptions. The occaſion whereof is ſuppoſed to have been this, that the Spectators might not be wearied out with a continued diſcourſe or action, but that they might ſometimes be delighted with variety intermixed. For thoſe breaches and chaſms between each Act, were made up and ſupplyed, either by the *Chorus*, or *Muſick*. Where we muſt note, that every *Tragedy* and *Comedy* muſt have five *Acts* and no more, according to that of *Horace*:

Neve minor quinto, neu ſit productior actu
Fabula,——

Again we muſt remember, that it is not neceſſary that the πρότασις ſhould alwayes be contained in the firſt act, though many times it happeneth ſo; for in *Plautus* his *Bragging Souldier*, the *Proteſis* is found in the ſecond Act: and ſo likewiſe have the other three parts, *i. e. Epitaſis*, *Cataſtaſis*, and *Cataſtrophe*, their bounds unbounded.

Theſe

These Acts are divided into several Scenes, which sometimes fall out more, sometimes fewer in every act. The definition of a Scene being *c Mutatio personarum*: whence we call a subtile *Gnatho*, which can humour himself to all persons and times, *Omnium scenarum homo*, a man fit for all parts. Now among the Romans it was thought unfit, that above three persons should cóme on the stage in one Scene.

c Vid. Æl. Alag.

——*Nec quarta loqui persona laborat.* Hor.

The *partes accessoriæ* in a *Comedy* are four: *Argumentum*, *Prologus*, *Chorus*, and *Mimus*. The first is the matter or subject of the Comedy. The second is the Prologue; which is either πρωτατικὸς, such as doth open the state of the Fable, at which time there needeth no argument; or else συστατικὸς, such as commendeth the Fable, or the Poet, unto the people; or lastly ἀναρρευκὸς, such as shall refute the objections and cavils of adversaries. The third is *Chorus*, which speaketh between each act; and this *Chorus* may consist either of one, or many speakers, and that either male or female; *d* but with this caution, that if a male be to be condemned, then must the *Chorus* consist of males: if a femal be to be condemned, then must it consist of females. And alwayes whatsoever the *Chorus* speaketh, it must be pertinent to the Act past, or covertly intimating somewhat ensuing.

d Rosin. ant. cap. de trag. & com. l. 5.

——*Non quid medios, intercinat actus,*
Quod non proposito conducat & hæreat apte. Hor.

It may seem sometimes that in the midst of the Play some other sport was interposed, as hunting, or fencing, or such like, to delight the spectators with the greater variety: whence *Hor.*

Si discordet eques, media inter carmina poscunt
Aut ursum, aut pugiles.——

These interposed varieties were denoted by the name of *Diludia*; *Displicet iste locus, clamo, & Diludia posco*, Hor. The fourth and last accessory part was *Mimus* the Clown or Fool of the play. Of all these parts a Tragedy hath only

only a *Chorus*. The *partes circumſtantes*, or accidential ornaments, were four, common to both, *Titulus*, *Cantus*, *Saltatio*, *Apparatus*, *i. e.* The title of the Play, Muſick, Dancing, and the beautifying of the Scene. By the Sence in this place, I underſtand the partition between the Players veſtry, and the Stage or Scaffold. This partition at the acting of a Tragedy was underpropped with ſtately columns and pillars, and beautified with paintings reſembling Princely buildings, and the Images as well of Gods as Kings. At the acting of a Comedy, Country Cottages and private buildings were painted in the outface of the partition. In the *Satyrical* Playes the painting was overrun with ſhadowes of Mountains and Woods: The *e* firſt of theſe partitions they called *Scenam Tragicam*, the ſecond *Comicam*, the third *Satyricam*. The differences between a *Tragedy* and a *Comedy*, which may be collected out of *f Anteſignanus*, are theſe: firſt, in reſpect of the matter, becauſe a *Tragedy* treateth of exilements, murthers, matter, of grief, *&c.* a *Comedy* of love-toyes, merry fictions, and petty matters, the one being δεινῶν ἀθεσμοχῆ, the other τύχης ἀθεσμοχῆ. In a Tragedy the greateſt part of the actors are Kings and Noble perſons; in a Comedy private perſons of meaner ſtate and condition. The ſubject of a Comedy is often feigned, but of a Tragedy it is commonly true, and once really performed. The beginning of a Tragedy is calm and quiet, the end fearful and turbulent; but in a *Comedy* contrarily the beginning is turbulent, and the end calm. Another difference which *Anteſignanus* hath omitted, is behoveful for us to know, namely, that the *Tragedians* did wear upon the ſtage a certain ſhoe, coming half way up the leg in manner of buſkins, which kind of ſhoe was called by them *Cothurnus*, and from that cuſtome it hath been occaſioned, that *Cothurnus* is tranſlated to ſignifie *a Tragical* and ſtately ſtile, as *Sophocleo digna Cothurna*, matters beſeeming *Sophocles* his ſtyle; and ſometimes a Tragedy it ſelf. The Comedians did uſe an high ſhoe coming up above

e Alex. Gen. dier. l. 5. c. 16.

f Anteſig. in ſuis obſer. de metris Comicis.

Terent. præfixis.

Nigris medù impediit crus Pellibus. Horat. Ser. l. 1. Sat. 6.

above the ankle, much like a kind of shooes which plowmen use to wear to keep themselves out of the dirt. This kind of shoe is called *Soccus*, by which word sometimes also is signified a Comedy, as

Hunc socci cepere pedem grandesq; Cothurni. Hor.

f All these sorts of Stage-plays, both *Mimical*, *Satyrical*, *Tragical* and *Comical*, if they were acted according to the Grecian rite and custome, then were they called *Palliatæ* from *Pallium*, a certain Mantle which the Grecians did use to wear; if according to the Roman manner, then were they called from the Roman gown *Togatæ*. f Antesig. ib.

CAP. 12.

De Trojano ludo, sive Troja.

IT was a custome among the Romans, some times in the year to have a general muster of the younger sort, who meeting in the Cirque, exercised there running, racing, riding at tilt, and other such like feats of activity, whereby they might be trained up for their better service in the War. They chose a Captain, one or other of noble birth: he was called *a Princeps juventutis*. They divided themselves into distinct companies, sometimes marching forward, one against another, sometimes retireing backward, sometimes skirmishing, sometimes imbattleing themselves in one form, sometimes in another, as if it were a true field pitcht. A large and full description hereof we have in *Virg. Æn.* 5. This game was called *Trojanus ludus*, or simply *d Troja*, without the addition of any word, because *Ascanius*, *Æneas* his Son, first brought it out of *Troy*, according to that of *Virgil* in the fore-quoted place. a Hosp. de orig fest. d Sueton. in Julio. c. 39.

Hunc morem, cursus, atq; hæc certamina primus
Ascanius, longam muris cum cingeret Albam,
Retulit, & priscos docuit celebrare Latinos.

Among other sports used at this time, *e* there was also a kind of Maurisk-dance, wherein the younger men danc- e Alex. ab. Alex l. 6. c. 19.

ced in harneſs, after a warlike manner, being thereby trained to exerciſe all parts of their body, by ſundry geſtures, as well to avoid all venues and defend themſelves, as to annoy and offend the enemy. This kind of dance is generally called *Pyrrhica ſaltatio*, becauſe it was invented by *f Pyrrhus*. Yea, *g* ſome ſay, that *Suetonius*, taketh *Trojanus ludus*, and this *Pyrrhica ſaltatio*, for one and the ſame thing. Nay *Alexander* confoundeth both theſe, with thoſe other games termed *Juveniles ludi*. But doubtleſs herein he was miſtaken; for thoſe *Juvenilia* were inſtituted by *h Nero i* at the ſhaving of his beard, and had not their name, becauſe young men were the chief Actors, but becauſe old men would now by the practice of youthful ſports, turn young again. The actions at this time were ſo far from favoring of military diſcipline, that on the contrary, they were for the moſt part effeminate and wanton.

f Plin. l. 7. c. 56
g Serv. in l. 5. Æn. Alex. ab Alex. loco. ſupra. caito.

h Suet. in Neron. c. 11. Cæl. Rhod. l. 19. c. 22. *i* Roſin. Rom. ant. 5. c. 22.

CAP. 13.

De teſſeris, talis, & latrunculis.

BEfore we treat of the game called *Ludus teſſerarius* it will not be amiſs, 1. to clear the word *teſſera* from all ambiguity. The word hath four remarkable ſignifications, all alluding to matters of antiquity. Firſt, it ſignified a watch-word among the ſouldiers in the camp, whereby they diſcerned their enemies, or ſpies, from their own fellows. *o Alex. ab Alexandro* giveth many examples hereof: *Auguſtus Cæſar* in his camp gave for his watch-word *Venus genetrix*; *Pompeius magnus* gave for his, *Hercules inviſtus*, *&c.* and this was called *Teſſera militaris*. Secondly, there was *Teſſera frumentaria*, a certain ticket or token given by the Magiſtrate unto the poor, at the tendring whereof, *p* at the beginning of every month, certain doles, and meaſures of corn were given; it is evident that at firſt there were ſuch monthly diſtributions of corn, even by that endeavour of *Auguſtus*,

o Alex. ab Alex. l. 4. c. 2.

p Suet. Aug. c. 40.

Auguſtus, who for the avoyding of trouble, would have reduced all to three ſet diſtributions in the year, but prevailed not; ſometimes inſtead of corn, or haply over and above the corn, there were at certain times, doles of money given to the poor, which dole whoſoever received, rendred his token or bill of exchange, termed *Teſſera nummaria*; theſe two laſt acceptions, though they may be diſtinguiſhed, yet becauſe they both tended to the relief of the poor, I have joyned them together. 3. there was *Teſſera hoſpitalis*, a certain token of wood, or ſuch like matter, which uſually was cut in two by thoſe who had engaged themſelves mutually to entertain each other, whenſoever entertainment ſhould be craved; yea this wooden ticket or tally being mutually accepted, it was lawful for their poſterity bringing this token, to challenge hoſpitality. Thus he in *Plautus* having formerly uſed *Antidomus* as his hoſt, after *Antidomus* his death, he cometh unto *Antidomus* his adopted Son, not doubting of entertainment; for ſaith he, *Deum hoſpitalem, ac teſſeram mecum fero.* Hence from this cuſtome, or tendring a token when hoſpitality ſhould be craved, that adage hath been derived, *Teſſerum hoſpitii confregit*, i. e. he hath broken the league of hoſpitallity. Laſtly, *Teſſera* ſignifieth a *Die*: where we muſt note that the word *Alea*, which commonly is tranſlated a Die, is a general word, applyed equally both to the *Teſſeræ* and the *Tali*, to denote the uncertainty of both games. *Teſſera* properly ſignifieth a Die; *Talus*, an huckle-bone, ſuch wherewith children play at *Cockall*. In determining the ſeveral chances in theſe playes, Authors are not only diverſe, but in many things contrary each to other, neither can any certainty be gathered from their writings; whether my conjectures, drawn from comparing their ſeveral and contrary writings, may give light for the right underſtanding of decayed knowledg herein, I ſhall willingly ſubmit my ſelf to the cenſure of the judicious. The ſeveral chances which I read of are theſe,

some arising from the number of the points of the Dye, as *Senio*, *Monas*. More usually among the Grecians q these two were termed Κῶος, & χίος ὃ μὲν γὰρ χίος ἐδύνατο ἕν, ὅδε Κῶος ἕξ, i. e. *Chius*, answered our *Ace*: *Chous* our *Sice*. And this is confirmed by a proverb in use among the *Grecians* Κῶος πρὸς χίον, which the learned interpret to be a comparison of unequals, a Pygmie with a Gyant; others named from the number, I read not of. Perhaps they played not with a single Die, but with three, as we use in *Passage*, whence their chances might have their name, not from the number of points in each several Dye, but from them all being cast. But that the *Tesseræ* had points in them, appeareth by the testimony of a *Turnebus*: And hence *Numeri* is sometimes used for *Tesseræ*;

q Suid. in voce Κῶος.

a Turneb. adv. l. 5. c. 6.

Seu ludet numerosq; manu jactabit eburnos.
Ovid. 2. de Art. amand.

That they used more *Tali* in their playes, than they did *Tesseræ*, b *Turnebus* observeth from that verse,

Non sum talorum numero par tessera. Mart. 14. epig. 15.

c *Cœlius Rhodiginus* speaketh more distinctly, saying, that in their play they used three *Tesseræ*, but four *Tali*. These *Tali* were sometimes called *Vulturii*, as appeareth by the same d *Rhodiginus*, and likewise *Reguli*. The reason of both is rendred by *Turnebus*; he being of opinion that these *Tali* had not points in them as the *Tesseræ* saith, *pro numeris effigies animalium habebant, ut vulturum, aut regulorum*. That they were termed *Vulturii*, is probable by that of *Plautus*:

b Turneb. adv. l. 6. c. 10.

c Cœl. Rhod. l. 20. c. 27.

d Cœl. Rhod. l. 20. c. 18.

e Turneb. adv. l. 5. c. 6.

Tace parumper, jacit vulturios quatuor.
Plaut. Curcul. Act. 2. Sc. 3.

But that the Cockle-bones should be called *Reguli*, I somewhat doubt; for no question but *Regulus* and *Basilicus* in this place signifie one and the same thing, the one being the *Latine*, the other the *Greek* word; now *Basilicus*, as shall presently appear, signified the whole chance. So confused are the opinions of Authors herein,

in, that to assign the reason for every chances name, or to reduce every chance determinately, either to the *Tesseræ* or the *Tali*, I think it impossible. Only some may be thus reduced, and in general we may conceive probably which chances were fortunate, which unfortunate. The unfortunate chance in the *Tali*, was commonly called *Canis*, or *Canicula*, or *Chius*. The most fortunate chance, *Venus*, or *Basilicus*. [f] *Lipsius* taketh them both for one, and that not without ground, if we compare *Horace* and *Plautus*; both of them treating of that old custom of throwing these Cockle-bones at their feasts, for the choice of their *Modiperator*, or master of the feast, which should prescribe laws for drinking to the whole company.

[f] Lips. antiq. lect. l. 3. c. 1.

Venus arbitrium ——
Dicet bibendi. Saith *Horace.*
Jacto Basilicum, propino magnum poculum.

Saith *Plan. Curcul.* And why may not this cast be justly termed *Basilicus*, seeing the *Modiperator* hereby designed, was by the Grecians not only called συμποσιαρχος, but also βασιλευς *King*, *Prince*, or chief commander at the table? This cast was then thought to be thrown, when all four Cockle-bones appeared not one like the other, but all with different faces. [g] *Venus consurgebat ex talis quatuor jactatis, ubi diversas omnes ostendissent faciem:* with whom accordeth [h] *Turnebus*; *Venus erat, cum nullus eodem vultu stabat talus. Hercules* was also a lucky throw, but whether the same as *Venus*, I have not yet learned.

[g] Cœl. Rhod. l. 20. c. 27.
[h] Turneb. adv. l. 5. c. 6.

The games with the *Tesseræ*, I make no question were divers: the ignorance of which, they being long since out of use, hath caused much obscurity in this matter: one game there may seem to have been in use where the just number of eight seemeth to have been the chief Cast; it was called [i] *Stesichorius jactus*, or *Stesichorius numerus*. The reason is rendred by *Rhodiginus*, because *Stesichorius* his tomb, erected at great charges for greater

[i] Cœl. Rhod. l. 20. c. 27.

ter magnificence, *Ex octonis constabat omnibus*, i. e. consisted of many eights: to wit, *eight angles*, or corners: *eight columns*: *eight steps*, or grieces. In their common game, the most fortunate throw is thought to have been three *Sices*; we call it in *Passage* a *Royal pass*, whence it was commonly called *Senio*;

——*Quid dexter senio ferret*
Scire erat in votis, damnosa canicula quantu
Redderet, auguste collo non fallier orcæ, Pers. Sat. 3

Which one place of *Persius* giveth light to this in three things. First, that the winning cast was termed *Senio*: and if you make *Basilicus* a term common both to Dice and Cockle-bone, as *Venus* is, we may fitly render it a *Royal pass*. Secondly, the losing cast, *Canis*, or *Canicula* in English a *Dog-chance*. Thirdly, the manner of their play, both in their Dice and Cockle-bones, was by casting them not immediately out of their hand, but out of a dish or narrow-mouth'd vessel, that there might be fair play, without striking or cogging the Dye: this vessel *Persius* calleth *orca*, and describeth it to have a narrow mouth, and a straight neck. *Horace* applieth it to the *Tali*, *Satyr.* 7. *l.* 2.

Mitteret in Pyrgum talos——

Calling it *Pyrgus*, using the Greek word πύργος a Tower or Steeple, so called from πῦρ fire, because the form thereof being *acuminata*, resembleth the rising of fire: the word intimateth *Horace* his *Pyrgus* to have been of the like form with *Persius* his *Orca*. But to return to the game, the chief cast as I said was thought to be when three *Sices* appeared: which opinion is strengthned by that common proverb, *Aut tres sex*, *aut tres tesseræ*, i.e. either three *Sices*, or three *Aces*. And the first of these being the best, the other the worst chance in the Dice, the proverb implieth thus much, I will put all to the hazard, I will win or lose all. This cast was also called *Midas*, for as *Rhodiginus* speaketh, *In tesserario ludo Midas*

jactus

jactus erat fortunatissimus; with whom accordeth *k Dempster*, proving it out of *Suidas*:

Μίδας ὁ ἐν κύβοις εὐβουλότατος.

Midas in tesseris consultor optimus.

k Dempst. ant. Aut q. Rom. l. 5. c. 1

This name signifieth the best chance, yet was not appropriated to the *Tessera*, but sometimes also signified the fortunatest chance of the *Tali*. Likewise from that of *Mart. l.* 13. 1.

Senio nec nostrum cum cane quassat ebur.

It is noted by *l Erasmus*, that as often as an *Ace* hapned to be thrown together with a *Sice*, so that *Senio* and *Canicula* appeared together at one throw, it was a losing cast. *Suetonius* is clear in the proof hereof, if for *Aut* we substitute *Et*, which unless we do, it will be a matter of great difficulty, to make a congruity of sense. His words are, *Talis enim jactatis, ut quisq; Canem aut Senionem miserat in singulos talos, singulos denarios in medium conferrebat, quos tollebat universos qui Venerem jecerat.* Turn *Aut* into *Et*, the sense is obvious. Look who threw an *Ace*, and *Sice* together, for every Dye he staked and laid to stake a Dinere: which he took up and swooped all clean whose luck it was to throw *Venus*. *Euripides*, as I take it was not a chance, but a kind of game, much resembling that which is in use with us, called *one and thirty*: The number of that game was *fourty*, and the game called *Euripides*, because *Euripides* was one of the fourty chief Governours in *Athens*, when the thirty Tyrants were deposed. The reason of my conjecture is taken from *n Rhodiginus*, whose words are these, *Euripides numerum continebat quadragenarium, quoniam videtur unus fuisse Euripides prefectorum quadraginta, post triginta Tyrannos Atheniis exactos*: from all we may note, that the *Jactus pronus*, or *Jactus plenus*, that is, the lucky cast, we may English it *Take all*, was commonly called, *Senio Venus, Cous*; the *Jactus supinus*, or *Jactus inanis*, was likewise commonly known by no other name than *Canis, Canicula*, or *Chius*, we may English it *Blank*.

l Erasm. adag. Chius ad Cœum.

n Cœl. Rhod. l. 20. c. 17.

o Some

o Barthol. Merula in *Ovid. de art. amand. l. 2.*

ō Some have delivered their mind touching these plays, thus: that the *Tali*, or Cockle-bones, had but four faces or sides, and therefore yielded four chances, and no more; the first is called *Canis*, or *Canicula*, answering to our *Ace*, and it was the worst of all; the opposite unto it they term *Venus*, or *Cous*, and is accounted the best: *Merula* against sense understandeth the number of seven by it; it may stand for our *Sice*. The third bore the name of *Chius*, proportioned to *Trey* with us; and the last *Senio*, which is as much as *Quatre*. For in these *Tali* there is no chance of *Deanr* or *Cirque*. This opinion at first I confess seemed plausible to me; but how fully it discovereth the game, and how agreeable it is to antiquity, let others judge. The chances of the Dice, or Cockle-bones, as they were termed *Jactus & Missus*, casts: so also were they called p *Manus*, figuratively, as every stroak in the fencing-school was termed *Manus*. The first acception of *Manus* is proved out of q *Suetonius*, where *Augustus Cæsar* speaketh thus, *Si quas manus remisi cuiq; exegissem, aut retinuissem quod cuique donavi, vicissem, &c. i. e.* If I had exacted those chances which I remitted every one, and kept that which I bestowed, I had gotten, *&c.* The second acception of *Manus* is confirmed by r *Quintilian*, who calleth the second, third, and fourth stroaks in fencing, *secundas, tertias, & quartas manus*. Our English phrase is not much unlike; he hath had a good or bad, lucky, or unlucky hand. Another game there was of like nature played with Table-men: The word *Latrunculus* translated a Table-man, did properly signifie an hired souldier, such a one as served for pay: whence *Latro*, whose diminutive *Latrunculus* is, hath his denomination ἀπὸ τῆς λατρείας, *à Serviendo*. In this sence the word is used by *Plantus*;

p Lisp. Sat. l. 2. c. 20.

q Suet. Aug. 72.

r Quint. l. 5. c. 14.

s Plaut. Mil. glor. Act. 1. sc. 1.

Nam Rex Seleucus me opere oravit maximo,
Ut sibi latrones cogerem, & conscriberem.

Secondly, because souldiers are so prone and apt to commit robberies: hence *Latro*, and *Latrunculus*, hath been used

uſed alſo to ſignifie a thief or robber. And thirdly, in a borrowed ſenſe, theſe words are applied to ſignifie table-men, or cheſs-men; becauſe this game hath the expreſs form and repreſentation of a war or battle, fought between two armies; Inſomuch that *t Pyrrhus* King of *Epyre*, being skilful in plotting ſtratagems, firſt taught his ſouldiers that art of projecting, by plays and repreſentations thereof in the table-men. *u* Some are of opinion, that it was firſt invented in the ſiege of *Troy* *Palamedes*, who that he might keep his ſouldiers in better order, allowed them this kind of recreation, whence theſe cheſs-men are ſometimes called *Palamediaci calculi*: they were made ſometimes of wax, ſometimes of glaſs, ſometimes of other matter. The game ſeemeth to be the very ſame with that which we call *Cheſs*. Other games there were of leſſer note for recreation, of which ſort were principally theſe that follow; *Petaurum*, *Diſcus*, *Pila*, *Trocus*, *Nuces*, πίταυρον, from whence this Latine word *Petaurum* cometh, ſignifying properly a perch or pole, on which poultry rouſt: and hence the rope or ſtaff on which light perſons were wont to dance, and try maſteries, was termed *Petaurum*. It ſignified alſo a certain hoop, or wheel, through which active perſons would run ſwiftly, their body ſo warily carried, that in their running they would not touch the hoop or wheel: to this purpoſe *Alex Neop.* ſpeaketh, *Fuit a quoq; Petauri ludus admirationis præcipuæ, cum per circulos quiſpiam velociter curſu tranſvolat, corpore ita librato, ut circulum non offendat.* Such tumblers as were practiſed in this kind of activity, were thence called *Petauriſtæ*. *Diſcus* was a round ſtone in manner of a bowl, ſometimes made of Iron, or Braſs; whoſoever could caſt it fartheſt got the victory; the players thereat were called δισκοβόλοι, from δίσκος and βάλλω to dart, or caſt out any thing. *Pila* ſignifieth a ball, and of it there were divers ſorts. 1. *Harpaſtum*; which we may Engliſh a *Foot-ball*. *b* This ball being put down in the middle, two companies of young men ſtrove who ſhould drive

t Donat. in Teren. Fun. Act. 4. ſc. 7 ad illud, Idem hoc jam Pyrrhus factavit.

u Suid in voce τάβλα.

a Alex ab Alex. l. 4. c. 21.

b Alex. ab Alex, ibid.

driveit thorow the others goal. 2. *Pila*, which ſignified a diſtinct kind of ball, ſo called from the hair with which it was ſtuffed. 3. *Follis*, a light kind of ball, ſo called becauſe it was ſtuffed with a bladder; with this old men and young children played. 4. *Paganica*; this had his name *à pagis*, from villages and Country Towns, where it was chiefly in uſe; it was ſtuffed with feathers; of all theſe *Mart.* 14. 45.

Hæc quæ difficilis turget paganica pluma,
Folle minus laxæ eſt, & minus arcta pila.

5. *Trigonalis*; and this I think both the *Pila* and the *Follis* were called, in oppoſition to the *Paganica*; the reaſon of the name is taken from the form of the Tennis-Courts, which becauſe they were three-ſquare in manner of a triangle, *c* hence was the ball with which they played in ſuch Courts termed *Trigonalis*. The players themſelves were termed *factores*; thoſe that did caſt the ball into the Court, were called ſimply *datores*; and *d* hence *datatim ludere*, is to play at ball; or elſe we may imagine the reaſon of this phraſe to be, becauſe ſuch as in their play by negligence did let down the ball, did *juram dare*, hold out their leg, to have the ball flung at it. *Trochus*, it ſignifieth a top: as it was commonly called *Trochus*, from τρέχω to run, becauſe of the ſwiftneſs thereof: and likewiſe *Turbo* in Latine for the ſame reaſon; So ſometimes it was called *buxum*, from the matter whereof it was made, as

c Cœl. Rhod. lib. 20. c. 18.

d Turneb. ad ver. l. 7. c. 4.

——*Buxum torquere flagello.* *Perſ.* Sat. 3.

Nuces, with nuts they had many plays, ſome of which are at this day in uſe. One holding an uncertain number of nuts in his hand, his fellow that plaid with him was to divine whether the number was *Even* or *Odd*. This *Horace* calleth

Ludere par impar ——

The Grecians ζυγὰ ἢ ἄζυγα. Of this *Ovid de nuce*,

Eſt etiam, par ſitnumerus qui dicat an impar,
Ut divinitas auferat augur opes.

Sometimes

Sometimes they piled their nuts, three beneath, and one on the top, in manner of a Castle: of this *Ovid* speaketh likewise.

Quatuor in nucibus non amplius alea tota est,
Cum sibi suppositis additur una tribus.

Yea, these nut games were so many, and so peculiar to children, that striplings growing unto mans estate, were still reputed children, untill they forsook these nut-sports; whence *nucibus relictis* sounds as much as childishness being past; and this is thought to be the reason, why the *e* bride-man, as soon as he was married, used to cast nuts among the people; intimating thereby a farewell to such childish pastimes. Many other childish games they had, among which one resembleth our *Cross and pile*; *f* they termed it *Capita vel navim*, because the coyn which they fillipped or tossed into the air, bore stamped on the one side *Janus* his two faces, on the other side a ship.

e Rosin. ant Rom. l. 5. c. 27.

f Anton. Constant. in Ov. Fast. l. 1.

CAP. 14.

De mensis & conviviis Romanorum.

BEfore we proceed to the description of the Roman tables, we will explain those five termes, *Jentaculum*, *Prandium*, *Merenda*, *Cœna*, & *Commessatio*. Which five words do signifie the five several feedings each day, which children, old men, labourers, travellers, and such like, did usually observe; for others of healthier and stronger constitution did commonly eat but one meal, at the most but two in the day. *Jentaculum* signifieth their break-fast, and it had its name, like as our English word hath, *à jejunica*, from fasting: In former times it was called a *silatum*, from *Sile*, the name of a certain herb, with the root whereof they were wont to season that wine which they had at break-fast: for as *b* *Plutarch* saith, their break-fast was nothing but a sop dipped in wine. In the same place he likewise saith, that in old time they had no dinner, but that which we call *Prandium*

a Rosin. ant. l. 5. c. 27. *b* Plut. in sym. l. 8. q. 6.

was the same with them as *Jentaculum*, and thus much the Greek word ἄριστον signifying a dinner, doth intimate, it being so called, *quasi* ἀώριστον from ἀώριον, which signifieth the mourning. The name *Prandium*, which we render a dinner, was so said *quasi* πρὸ ἐνδίου signifying Noon-tide, or Mid-day. The third time of taking meat, was called *Merenda*, we may English it our Afternoons beaver; it was called also *Anticœnium*, because it was taken a little before supper. [c] *Merenda est cibus, qui declinante die sumitur, qua si post meridiem edendus & proxime cœnæ; unde & antecœnium à quibusdam dicitur.* The fourth time was their supper; called *cœna, quasi* κοινὴ which signifieth as much as *Common*, [d] *quia antiquitus seorsim solebant prandere Romani, cœnare cum amicis.* Their fifth and last time of feeding, was called in Latine *Commessatio* by some, by most *Commessatio à comedendo.* [e] *Joannes Tristinus* saith, that it is a beaver taken after supper, or a night drinking. But the cheif feast, wherein they [f] gave entertainment, being their supper, we will consider these three things therein. First, *accumbendi vel discumbendi rationem*, that is, the manner of their lying at supper (for they did neither stand nor sit at table, as we do) secondly, the form and fashion of their table, and lastly the parts of their supper. The place where they supped, was commonly called *Cœnaculum à cœna*, as our *dining chamber* is so called from our *dinner*. It was also called *Triclinium* or *Byclinium*, from κλίνη a bed; for sometimes there were three beds, sometimes but two about the table, upon which the guests did sit, or rather lye a long. In this dining Parlour was placed [a] table, sometimes made quite round, and for the common sort of people it was made of ordinary wood, standing upon three feet; but for men of better rank, it was made of better timber, inlaid sometimes with wood of divers colours, sometimes with silver, and it stood upon one whole intire foot, made of Ivory in form of a great Lion or Leopard, *&c.* Unto the meaner sort of these tables *Horace* alludeth;

—*Mida*

[c] Just. Lipsius cent. 1. ep. 65.

[d] Plut. sym. l. 8. q. 6.

[e] In orat. pro M. Cælio.

[f] Lazius de repub. Rom. l. 3. c. 3.

——*Modò sit mihi mensa tripes.* *Hor. Ser.* 13.

Unto the other, *Juvenal. Sat.* 11. *ver.* 122.

——*putere videntur*
Unguenta atq; Rosæ, latos nisi sustinet orbes
Grande ebur, & magno sublimis pardus hiatu.

Sometimes this table was made in the form of a half Moon, the one part thereof being cut in with an arch or semicircle, and then it was called *Sigma*, because it did much resemble the letter *Sigma*, g which as it appeareth by certain marble monuments, was in old time made like a Roman *C*. Hence is that of *Mart. lib.* 14. 87.

g Rosin. ant. l. 3. c. 28.

Accipe lunata scriptum testudine Sigma.

If any man should demand the reason, why they cut their table in that form, I must confess I have not read any reason in any author bearing shew of probabillity. My conjecture is this; it is agreed upon by most Authors, that in the round tables the one quarter was reserved void from guests, that the waiters might have a convenient room to attend: thereupon it seemeth not improbable unto me, that this crooked arch was made for the waiters. I acknowledge that this *Sigma* hath been translated diversly by divers writers, as it appeareth by *Lipsius* in the forequoted place. By some it hath been taken for the Parlour, or supping chamber, so *Lipsius* in his Antiquities; by others for the supper or feast it self: so *Cœluis*. By *Lipsius* since it hath been thought a certain place, erected in the manner of a semi-circle, or half Moon, against which they did place one continued bed, able to take six or seven guests. But *Brodæus* and *Ditmarus*, in my opinion have more truely taken it for the table it self. About the table that was perfectly round, were placed three beds, covered with tapestry, or some other kind of covering, according to the wealth and ability of the person, and thus

——*Strato discumbitur ostro:*

The beds being ready furnished, the guests lie down in manner as followeth. Each bed contained three persons,

sons, sometimes four, seldom or never more, except at their great and more solemn feasts. If one only lay upon the bed, then he rested the upper part of his body upon his left elbow, the lower part lying at length upon the bed; but if many lay upon the bed, then the uppermost did lie at the beds head, laying his feet behind the second his back; the second rested his head in the others bosom, having a cushion put between, laying his feet behind the third's back: in like manner the third and fourth did lie. The number of the guests was not great, seldom times exceeding nine: whence *A. Gellius* *h* saith, that the number of the guests should begin with the *i Graces*, and end with the *Muses*, that is, they must not be fewer than three, nor more than nine. This also hath been the reason of that adage, *Septem convivium, novem convitium faciunt. Heliogabalus* seemeth to have been delighed with the number of eight, *k* whence he invited to supper *octo calvos, octo luscos, octo podagrosos, octo surdos, octo raucos, octo insignitur nigros, octo insignitur longos, octo præpingues, & octo nasutos, delectatus illo Græco proverbio* ἄπαντ' ὀκτώ: Those that were not invited, but came of their own accord unto a feast without bidding, by *Plautus* they are called *Muscæ*, flies by others they are called *Umbræ*, shadows. Hence is that of *Horace*,

——— Locus est & pluribus umbris.

The party which invented the guests, sometimes expressed his earnestness by pulling and hailing one by the cloak: whence *Stukius* observeth, that when they would shew how earnestly they were invited, they would say *Penulam mihi scidit*, He tore my cloak off my shoulder. Again on the other side, when they would shew how easily the guest was intreated, they would say, *Illius ego vix tetigi penulam, tamen remansit.* Before the guests sate down, their shoes were usually pluck'd off, that they might not foul the bed on which they did lie *l*;

h A. Gell. Noct. Att. l. 13. c. 13 Tribus aut novem miscentur cyathia pocula commodis, qui musas amat impares. Ternos tercyathos attonitus petet Vates, tres prohiber. supra Rixarum metuens tangere Gratia, Nudis juncta sororibus. Hor. carm. l. 3. Od. 19.

i Alex. Gen. dier. l. 5. c. 21.

k Stukius de conv. l. 4. c. 1.

Terent. in Heauton.

Accurrunt

Accurrunt servi, soleas detrahunt,
Video alios festinare lectos sternere, cœnam parari.

m They likewise did gird their heads with fillets and hair-laces, as often as they intended to drink more than ordinary, thereby to prevent the vapours, which otherwise would annoy the head: for which reason, they did likewise *n* use garlands of Ivy, and Mirtle-tree, and Roses: the coolness of which comforted the brain. These garlands were also *Symbolum plenæ libertatis*, a token of their liberty. The Carver in these feasts was called from his artificial setting and ordering the dishes upon the table, *Structor*: and from his artificiall carving and cutting up of the dish, *Carptor*. *Tryphonus*, as appeareth by *Juven. Sat.* 11. was famous for his skill in carving: he did set up a school, teaching such as came unto him by rules and precepts: and also shewing them the manner of carving: which that he might the better do, he furnished a table with several dishes of meat, formed and fashioned in wood, with a dull knife, shewing his schollars after what manner, and with what gesture of their body they should cut up this or that dish. This supper because of the wooden dishes of meat, was called *Cœna sulmea*. They divided their supper usually into three parts, which they termed their first, second, and third course. In the first course commonly was served mulberies, lettices, sausages, and alwayes *Eggs*: as likewise in the last course (whether the second, or third) were served nuts, figs, grapes, but always *Apples*: *p* whence we say proverbially, *Ab ovo ad mala*, from the beginning of the feast to the end: or simply from the beginning of any thing to the end thereof. The middle course was the main supper, and the chief dish thereof was called *Caput cœnæ*: In *Lipsius* his phrase it is called *q Fundus & fundamentum cœna*. Their first mess they called the *proœmium*; the last, the *epilogue*: which because it consisted so much of sweet and delicious meats, hence did they apply that unto the

m Cœ. Rhod. l. 27. c. 26.

n Plin. l. 16 c. 1.

o Stuc. de conv. l. 3. c. 3.

p Pancirol. l. 1. rer. deperdit. cap. de cibi capiendi modo.

q Stuc. l. 3. de conviv.

the second course, αἱ δευτέραι φροντίδες σοφώτεραι, *Secundæ cogitationes sunt sapientiores.* If the table were well furnished with plenty and variety of dishes, it was called *Cœna recta*, or *Cœna dubia Recta* in this place signifieth as much as *vera*: thus among the Grecians ὀρθὸς sometimes signifieth *verus & sincerus.* The phrase intimateth that it was a supper, opposed to that dole of meat distributed by Princes to the people, which from the panier or basket in which it was brought, was called *sportula*; sometimes they distributed money instead of meat, this also was named *sportula*: so that *sportula* denoted any kind of dole, either of meat or money, which as often as it was given in lieu of a supper, it was opposed to *cœna recta.* Yet sometimes by *sportula* we may understand a light and short supper.

Parneb. a. v. l. 5. c. 10.

Promissa est nobis sportula recta data. Martial.

The reason why a great feast should be termed *Cœna dubia*, is, because in such variety of dishes the guest is many times doubtful of which to begin. Contrary to this is *cœna ambulatoria*, a supper where one dish walketh through the table.

LIB.

LIB. III. SECT. I.

Of the Roman *Assemblies.*

De Comitiis.

HItherto have we insisted upon the description of the most remarkable parts of the *Roman* City, together with the several divisions of the *Roman* people, as also the *Roman* religion; where we have seen the general divisions of their Gods and their Sacrifices, with their Ceremonies thereunto belonging, and likewise of the *Roman* games both greater and less. Now we are to proceed to that part of government, which is political or civil; where we will first speak of their Assemblies called *Comitia*, then of their civil Magistrates, afterwards of their punishments, and lastly, of so many of their civil laws, as I have observed needful for the understanding of *Tully*, and that principally in his Orations. For the more easie conceiving of all which I have prefixed one Chapter of the *Roman* year, treating there of the *Calends*, *Ides*, and *Nones*, the knowledge of which is needful for that which followeth.

CAP. 1.
De Anno & partibus ejus.

INasmuch as there cannot be a full knowledge of the *Roman* Assemblies, without some general understanding of the *Roman* year, and the general distinctions of the *Roman* days, it cannot be but worth our labour in this short Chapter, briefly to consider what may be spoken therein. This word *Annus*, is so called *quasi Annulus*, because (as the Greek word ἐνιαυτὸς signifieth) ἐν ἑαυτῷ ἔτος, *id est, in se convertitur annus:* which was the reason, why the *Egyptians* in their mystical cyphers (called *literæ hieroglyphicæ*) did use the picture of a serpent, having his tail in his mouth, to signifie an year. The time or space of this year hath been divers, according to the diversity of Nations. *a* Some allowed no more days to an year, then we do to a month, whence that monthly space which the *Latines* called *Mensis* from *b* μὴν, signifying the Moon, they called *Annum Lunarum*. Some allowed four months, some six months, some ten. And thus *Romulus* measured his year, counting the months either from the number of our fingers, or from the time that a woman goeth with child, or from the time that a widdow commonly mourned for her husbands death, or lastly from the multiplication of unities which in a simple number doth not exceed ten.

a Vid. Plin. l. 7. c. 48.

b Paulus Mar. in Ovid. Fast. lib. 1.

Quod satis est utero matris dum prodeat infans,
Hoc animo statuit temporis esse satis.
Per totidem menses à funere conjugis uxor
Sustinet in viduâ tristia signa domo. Ovid. Fast. l. 1
Annus erat, decimum cùm Luna receperat orbem,
Hic numerus magno tunc in honore fuit:
Seu quia tot digiti per quos numerare solemus,
Seu quia bis quino fœmina mense parit,
Seu quòd ad usque decem numero crescente venimus,
Principium spatiis sumitur inde novis. Ovid. Fast. l. 1.

Thus

Thus *Romulus* his year contained of months ten, of days 304. But after this *Numa* added two months,

At Numa nec Janum, nec avitas præterit umbras.
Menſibus antiquis addidit ille duos. Ovid. l. 1. Faſt.

Numa, *c* or as ſome ſay, *Tarquinius Priſcus* perceiving that the months did not always fall out alike every year; but ſometimes the ſame month would happen in the Summer, ſometimes in the Winter, thereupon after long ſtudy and many inſtructions from the *Grecians*, finding the reaſon of this confuſedneſs, he added unto *Romulus* his year fifty days, ſo that the whole year afterward was divided into twelve months; becauſe the Moon had finiſhed her courſe twelve times in that ſpace; beginning their year then at *January*; becauſe then in his judgement was the fitteſt time to begin the year, when the Sun being fartheſt from us, did begin to turn his courſe, and to come unto us again, which is about *January*, the Sun being about the *Tropick* of *Capricorn*. Afterward upon a ſuperſtitious conceit of the odde number, *Numa* added one day more unto *January*, ſo that whereas at the firſt *Numa* his year did agree with the *Grecian* year, both of them containing three hundred fifty four days: Now the *Roman* year contained three hundred fifty five days, which computation falling out too ſhort for the true year by the ſpace of ten days, and ſix hours yearly, it occaſioned every eighth year in the interpoſition of three whole months, which they called their leap year: *d* This confuſedneſs afterward *Julius Cæſar* by long ſtudy remedied, adding the odde ten days unto *Numa pompilius* his year. And leaſt the odde ſix hours might at laſt breed diſorder in their computation, he appointed that every fourth year a whole day ſhould be inſerted, next after the three and twentieth of *February*; which inſerting they called *Intercalatio* from an old verbe *Intercalo*, and that day they called *Intercalarum*. Now the day following being the four and twentieth of *February*, was always the ſixt of the Kallends of *March*, *e* and therefore becauſe of the interpoſition of

c Vid. Georg. Merulam in orat. pro Q. Ligario.

d G. Merul. in orat. pro Q. Ligario.

e G. Merul in orat. pro Q. Ligario.

that day, they called the leap year *Annum biſextilem*, that is, the year wherein their falled out two days, which they called *Sext. Calend. Martii*. And the day thus interpoſed, was called *dies biſſextus*. This computation, which *Julius Cæſar* found out, we have embraced, and do at this day follow, calling our year *Annum Julianum*, *f* and *Annum magnum*, having relation to the monthly year called *Annus Lunaris*; and ſometimes this great year is called, *Annus vertens*, *à vertendo*, becauſe it is always turning, and running on. * Moreover we muſt remember, that the *Romans* did begin their year at *March*; whence that month, which ſince hath been called *Julius* in the honour of *Julius Cæſar*, was by them called *Quintilis*, becauſe it was the fifth month; and that month, which ſince hath been called *Auguſtus*, in the remembrance of *Auguſtus Cæſar*, was by them called *Sextilis*, becauſe it was their ſixth month. Thus then the great year being divided into twelve months, every month was divided into three parts, *id eſt*, *Calendas*, *Nonas*, and *Idus*. The *Kalends* were ſo proper unto the *Romans*, that *g* *Auguſtus Cæſar*, when he purpoſed never to do what he was requeſted, was wont by way of Proverb to ſay, that he would do it *Ad Calendas Græcas*, that is to ſay in our Engliſh Proverb, *At latter Lammas*, *never*. For the better underſtanding of which, I ſhall inſert three common verſes,

Principium menſis noſtri dixere Calendas:
Sex Majus Nonas, October, Julius, & Mars,
Quatuor at reliqui tenet Idus quilibet octo.

That is, the firſt day of every month is called the Kalends of that month. The 2, 3, 4, 5, 6, and 7. of theſe four months, *May*, *October*, *July*, and *March*, were called the Nones of that month: but in all the other months the Nones contained but the 2, 3, 4, and 5. days; ſo that the fifth day (for example ſake of *January* was called *Nona Januariæ*, or *Januarii*, the fourth *Pridie Nonarum*, or *Nonas Jan.* (For they uſed always to ſay *Pridie Cal. Pridie Nonas*

f Roſin. ant. Rom. lib. 4.

* Hubert. l. 3. ep. fam. 18.

g Suet. Oct. Aug. c. 97.

nar: and *Pridie Iduum*, instead of *secundo Cal. Non. Id.*) The third day of January they called *tertium Nonarum*, *vel Nonas Jaunar.* the second day of January they called *quartum Nonarum*, *vel Nonas Januar.* After the Nones followed the Ides, which contained eight days in every moneth, so that the 15. day of the four aforesaid moneths was called *Idus Maii*, *Idus Octob. Idus Julii*, and *Idus Martii.* In all the other moneths, the 13. day was the Ides, as to proceed in January, the 13. day was called *Idus Januar.* the 12. *Pridie Iduum*, *vel Idus Januar.* the 11. *tertio Iduum*, or *Idus Jan.* the 10. *quarto Iduum*, *vel Idus Jan.* the ninth, 5. *Id. Jan.* the eighth, 6. *Id. Jan.* the seventh, 7. *Id. Jan.* the sixth, 8. *Id. Jan.* After the Ides then followed the Calends of the next moneth. As the 14. of January was *decimo nono Calendarum*, or *Calendas Februar.* the 15. *decimo octavo Calend. Feb.* the 16. *decimo septimo Cal. Feb. &c.* Where we must note, that as often as we use *Pridie*, *tertio*, *quarto*, or any of those numerals with an accusative case, as *Pridie Calendas*, &c. the *Grammarians* say that this preposition *Ante* is eclipsed. Again, every moneth had in its compass three great markets, which because they were observed every ninth day were called *Nundinæ*, and the latter of them being the greatest is called by *Atheneus* τρίτη ἐκκλησία which we may render *Trinundinum*, or *Trinum nundinum.* It followeth now that I should treat of the days, which are the lesser parts of the year: where before we proceed, we will consider the parts which the Romans divided their day into.

Dies Civilis continet.

- *Lucem, cujus partes sunt*
  - *Diluculum.* The break of day.
  - *Mane.* The full morning.
  - *Ad meridiem.* The fore-noon.
  - *Meridies quasi Medius dies,* Mid-day, or *quasi Merus dies,* Perfect day, noon.
  - *De Meridie.* After noon.
  - *Solis occasus.* Sun setting.
- *Noctem, cujus partes sunt*
  - *Crepusculum.* The Dusk of the evening.
  - *Prima fax.* Candle tinding.
  - *Vesper.* The night.
  - *Concubium.* Bed-time.
  - *Nox intempesta.* The first sleep.
  - *Ad mediam noctem.* Towards mid-night.
  - *Media nox.* Mid-night.
  - *De media nocte.* A little after mid-night.
  - *Gallicinium.* Cock-crowing.
  - *Conticinium.* All the time from Cock-crowing to the break of day.

The day and night again were each of them divided into *primam, secundam, tertiam, & quartam vigiliam,* every watch containing three hours. The first of the night began at six of the clock in the evening, and the fourth ended at six of the clock in the morning. *g* These watches were distinguished by several notes and sounds of Cornets or Trumpets, that by the distinction and diversity thereof, it might easily be known what watch was sounded. Moreover, we must understand that the *Romans,* upon a superstitious conceit and observation of misfortunes, and evil events falling out on some dayes, and more happy success upon other, have called the former sort of days *Atros dies,* or *dies postriduanos, & Ægyptiacos: ἀποφρὰς Greci nuncupant, perinde ac si nefandos dicas.* The reason why they were called *Prostriduani,* was because they thought *Dies prostridie Calendas, Nonas, & Idus i. e.* The next day after the Calends, Nones, or Ides of every moneth, to be unfortunate, and the latter sort they called *Albos dies,* *h* borrowing the names from the *Scythians*

g Alex. Gen. l. 1. c. 12.

h Vid. Eras. adag. unione signare.

thians, who uſed to chalk out the fortunate days in their Kalendars with white Characters: whence *Horace* ſaith

Creſſa non careat pulchra dies nota.

Other-ſome, as their unfortunate and unlucky days, were noted with a coal or black Character, according to that, -------*Nigro carbone notatus.*

Again, their Kalendar diſtinguiſhed ſome days for Holy-days, which they called *Dies feſtos*, feſtival days, or *dies Feriatos, & Ferias*, Holy-days, *i* becauſe they did upon ſuch days *Ferrire victimas*, i. e. offer up ſacrifices. Others were diſtinguiſhed for working days, which they called *Profeſtos, quaſi procul à feſtis.* The third diſtinction was of half holy days, which *ab intercidendo*, they called *Dies interciſos*, as it were days cut aſunder: the one part of them being allotted for worldly buſineſs, the other for holy and religious exerciſes. *k* The *feriæ* were either *privatæ*, and ſo they belonged ſometimes to whole Families, as *Familiæ Claudiæ, Æmiliæ, Juliæ*, &c. ſometimes to private perſons, as every one his birth-day, particular expiations, &c. or elſe they were *publicæ*, ſuch as the whole Common-wealth did obſerve; and they were of two ſorts, the one called *Anniverſariæ*, which were always to be kept on a certain day, *l* and thereupon they were called *feriæ ſtativæ*; the other *conceptivæ*, which were arbitrary, and ſolemnized upon ſuch days as the Magiſtrates and Prieſts thought moſt expedient, whereof the *Latiræ feriæ* were chief: which *Latinæ feriæ* were kept on Mount *Alban* to *Jupiter Latiar*, for the preſervation of all the Latine people in league and confederacy with the *Romans*, and were ſolemnized in memory of the truce between thoſe two Nations. Thoſe *Feriæ*, which were called *Imperativæ*, & *m Indictivæ*, becauſe the *Conſul, Prætor*, or chief Pontifie, according to their pleaſure, *imperabant, & indicebant has*, i.e. commanded them, may in my opinion be contained under that number of *Feriæ conceptivæ*, in reſpect of the uncertainty of them. Another diſtinction of days is found in the *Roman Kalendar*, to have

i *Aſcenſus in* ep. 3. illuſt. ir. l. 2.

k Roſin. ant. l. 4 c. 3.

l *Alex. Gen.* dier. l. 5. c. 7.

m *Alex. Gen.* dier. l. 6. c. 7. Serv. Æn. 11.

have been in *Fastos*, whole court or leet days; *Ex parte Fastos*, half court-days; *Nefastos*, Non leet-days; though this word *Nefastos* be often expounded unlucky, as in that of *o Horace* touching the tree, *Ille & nefasto te posuit die*, that is, he planted thee in an unhappy time. These days were called *à fando*, from speaking; because upon those days which were *fasti*, the *Prætor* or L. chief Justice might lawfully keep court and administer justice, which was not done without the speaking of these three words, *Do, Dico,* & *Addico*; *p Dabat actionem*; *Dicebat jus*; *Addicebat tam res quam homines*. Where by the way we must note, that sometimes these court-days were also called *dies Comitiales*, because that *q* upon every such day which was noted in the Kalandar for a Comitial day, if the publick Assemblies were not held, it was lawful to keep court: whence not only *Comitiales dies* doth signifie a law day, but *Comitialis homo* also doth signifie a wrangler in the law, or a litigious person.

o Carminum l. 2. Ode 13.

p Joach. Camerar. pro Flacco.

q Bersman. in suis annot. in Rom. Calen. ad finem Ovid. Fast.

CAP. 2.

De Comitiis idq; Calatis præcipue, de Rogationibus, & antiqua scribendi ratione.

EVery assembly of all the *Roman* people being called together by a lawful Magistrate to determine any matter by way of giving voices, is *à coeundo* termed *Comitia* simply, without the adjection of any other word; or *Comitia Calata*, that is, assemblies called together, from καλέω or the absolute Latine Verb *Calo*, which signifieth to call; though afterward those assemblies only which were held either for the inauguring of some Pontifie, some *Augur*, some *Flamen*, or him that was called *Rex sacrorum*, or for the making of their wills and testaments, were called *Calata Comitia*. Whence the Will that was made in these assemblies was called *Testamentum Calatis Comitiis*. This kind of assembly is sometimes called *Comitia a Pontificia*, and *Comitia Sacerdotum*, in that sense as others

a Joan. Trissinus in orat. pro Cœlio.

others are called *Consularia*, or *Ædilitia Comitia*, namely, because the Pontifies in these, as the *Consuls* and *Ædiles Plepis* in the other, were chosen. There followeth three other kinds of assemblies: for either the people did assemble themselves by Parishes, called *Curiæ*; or by hundred, called *Centuriæ*; or by Wards called, *Tribus*. The first sort of assemblies they called *Comitia Curiata*, the second *Comitia Centuriata*, the last *Comitia Tributa*: *b* where by the way we must note, that that thing which was determined by the *major* part in any Parish, hundred, or ward, was said to be determined by that whole parish, hundred or ward; and that which was determined by the *major* part of parishes, hundreds or wards, was that to be approved *comitiis Curiatis Centuriatis vel Tributis*. Secondly we must note, that neither children, until they were seventeen yeares old, nor old men after the sixtieth year of their age, were allowed to suffrage in these assemblies; whence arose that adage, *Sexagenarii ponte dejiciendi*, *c* and old men were hence called *Depontani*, for the explication of which see before. Here before we speak of those three several kinds of assemblies, we will consider the manner of their proceedings, in propounding cases unto the assemblies. *d* The custom was at first, that the *Romans* should bestow their suffrages *Viva voce*; but afterward that every one might with free liberty give his voice, they commanded certain wodden tables, wherein the names of those that stood for Offices were written, to be carried about, every suffrager receiving so many tables as here were suitors; then did the people give back that table with whom they would suffrage. But if a law were to be enacted, then every suffrager received two tables, in the one of which were written these two great letters V. R. in the other was written a great Roman A. those who delivered these tables to the people, did stand at the lower end of those bridges; which were erected up for the suffragers to ascend unto the *ovilia*) whence they were called *à diribendo*, *i. e.* from distributing *Diribitores*. At the other end of the brigdes were placed certain

b Sig. de jur. Rom. l. c. 17.

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d Philip. Beroaldus in orat. Phil. 11.

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tain chests or little coffers, into which the suffragers which did approve the Law did cast in the first table; those that disliked it, did cast in the second; for by those two letters V. R. which were written in the first, is meant *Ut Rogas*, i.e. Be it as thou hast asked, this word *fiat* being understood; by A. in the second table was meant *Antiquo*, i.e. I forbid it, the word signifying as much as *antiquam volo*, I like the old law, I love no innovations. The tables being thus cast into the chests, certain men appointed for that purpose in manner of Scrutators (they called them *Custodes*, and sometimes *e Nongenti*) did take the tables out of the chests, and so number the voices, by making so many points or pricks in a void table, as they found tables alike: which kind of accounting occasioned these and the like phrases; *Suffragiorum puncta non tulit septem*, and *omne tulit punctum*; where *punctum* is used for *suffragium*: The voices being thus numbred, it was pronounced by the common Crier what was decreed. Because the use of those Tables is now grown quite out of use, I shall make bold to insert that which with much labour I have collected out of several Authors touching these tables. It is certain that a long time the use of paper was not known, whence men were wont to write sometimes upon the inward rindes of trees, called in Latine *Libri* (so that to this day we call our books *Libri*, because in old time they were made of those rindes of trees) sometimes they did write in great leaves made of that rush *Papyrus*, growing in *Ægypt*, from which we have derived our English word *Paper*, and the Latine word *Papyrus*, now signifying writing paper. Shortly after the invention of this Egyptian paper, *Ptolomy* the King of *Egypt* restrained the common making thereof, because of the great *a* emulation between him and *Eumenes* King of *Pergamus* concerning their Libraries: not long after therefore *Eumenes* having found out the making of parchment, he made use thereof in writing, and called it from the place *Pergamena*,

e Plin. l. 33. c. 2.

a Plin. lib. 13. cap. 11.

gamenta. At this time did the *Romans* use to write in tables of wood, covered with wax, called in Latine *ceratæ tabulæ*. They wrote their Wills and Testaments in tables, *b H inc secundum & contra tabulas bonorum possessio*; The possession of goods either according to or against the Testator his Will. Because of the wax wherewith these tables were covered, *cera* is often used in the same sense; *Hæredes primæ ceræ*, i. e. *primæ tabulæ, & in primo gradu instituti*, by which words I think are understood such heirs as *Alexander* calleth *Hæredes ex toto asse*, that is heirs to the main inheritance, opposing them to those which did receive only legacies, whom he calleth there *Hæredes in ima cera, secundos hæredes, & legatarios*. *d* Sylvius not upon improbable grounds doth think that *Tully* doth understand by *Hæredes secundi*, such heirs as were nominated to succeed the chief heir or heirs if they died. They wrote their accounts in tables, hence *Tabulæ accepti & expensi*, signifying reckoning books. These countbooks were of *e* two sorts, some monthly, without order or method, called *Adversaria*: *Quod adversa parte etiam scriptis implerentur*. Others perpetual, being the transcript of the former, called *Tabulæ accepti & expensi*. They wrote their statutes also in tables, whence *Tabulæ publicæ* are Englished statute-books, or other books of record. Those writings or instruments which the Senate or Emperour caused to be hanged up in the Market-place, to release and discharge any bankrupt from paying his debts, they termed *tabulas novas*, we may English them Letters of protection. They wrote their inventories of goods set to sale in Tables, calling them *tabulas actionarias*: yea they indited their epistles and common letters in tables: insomuch that *tabellæ* are expounded missive letters, *and tabellarius*, which properly signifieth a carrier of tables, is now used to signifie a letter carrier: yet they sometimes wrote also in plates of lead, εἰς ἐλασμοὺς μολυβδεῖν γράφοντες. And thus we may understand what *h Suetonius* meaneth by *charta plumbea*, concerning

b P. Pellitar. in ora. pro *A.* Cœcinna.

c Alex. Gen. dier. l. 1. c. 1.

d Fr. Sylv. pro Cluent.

e Cœl. Rhod. l. 12. c. 21.

Fr. Sylv. in orat. Catilin.

g Suidat. in voce. μόλυβδος

h Suet. Ner.

cerning all theſe, *i Plini* writeth excellently. Before the uſe and making of paper was invented, men wrote at firſt in Plam-tree leaves, afterwards in the rindes of certain trees; afterward publick monuments were recorded in volumns or rolls of lead, at laſt private matters, on fine linnen or wax. *k* The manner how they ſealed their letters was thus: they did bind another table unto that wherein the inditement was, with ſome ſtrong thread; ſealing the knot of that thread with wax; whence *Cicero* ſaith, *Linum inſcidimus*, that is, we opened the letters; hence alſo is that of *Platus*, *Cedo tuceram ac linum; age, obliga, obſigna cito.* *l* The impreſſion was commonly their own image, or the image of ſome of their anceſtors. The matter on which the impreſſion was made, was not alwayes wax, but ſometimes a kind of tempered chalk, which occaſioned that phraſe of *Tullies*, *m Signum ille animadvertit in cretula.* *n* Laſtly, they wrote their books in tables, whence from them we do at this day call our books *codices à caudicibus*, *candex* ſignifying properly the trunck or ſtock of a tree, whereof theſe tables or books were made. We muſt note withall, that they wrote not with ink or quill, but with an inſtrument of ſteel or iron, having *o* a ſharp point at the one end, and being broad, yet keen and well edged at the other; with the ſharp point they did write what they pleaſed, with the broad, end they did ſcrape out what they had written: whence *Stylum invertere*, is to ſay and unſay a thing, to turn his punch the wrong end downward, as it were to ſcrape out that which one had formerly written. The *Romans* did afterward uſe inſtead thereof, an inſtrument made of bone, prohibiting the uſe of iron ones, as *p Iſidore* noteth by that law, *Ceram ferrone cædito.* And as we uſe this word *Manus*, to ſignifie the writing it ſelf, according to that of *q Tully*, *cognovit, manum, & ſignum ſuum*: ſo in the like ſenſe we uſe this word *Stylus*, to ſignifie the peculiar tenure or ſtrain of phraſe which any man obſerveth in the compoſing of an oration, epiſtle, or ſuch like; in

i Plin. l. 13. c. 11.

k F. Sylv. in orat. Catil. 3.

l Juſt. Liſp. c. piſt. 14.

m Cic. 4. in Verrem.

n P. Peliltar. in orat. pro A. Cœcinna.

Vid. Eraſ. Adag.

p Herman. Hugo de prima ſcrib. orig. c. 9.

q Cic. orat. cont. Catil.

in which ſenſe *Tully* uſeth it, as the antitheton to *gladius*, in that ſpeech of his, *Cedat forum caſtis, otium militiæ ſtylus gladio*, though in another place he uſeth it to ſignifie, if not a ſword yet a pocket dagger, as, *Et ſi meus ille ſtylus fuiſſet*; ſ in which place *Stylus* doth ſignifie as much as *pugio*. And here ſeeing we are fallen into the manner and cuſtome of ancient writing, it will not be amiſs to note, that uſually at the end of their books, they printed a little mark, which they termed *Coronis*. Thoſe that interpret *Ariſtophanes*, deſcribe that mark thus, ſaying, that it is t *Linea brevis ab inferiore parte flexa*. All agree in this, that it was ſome common and known daſh, uſually ſubjoyned to the end of books. u Others are of opinion, that the ancient *Romans* did in like manner adorn the frontiſpiece, or beginnig of their books with the picture of an half Moon: which obſervation giveth light not only to that adage, ἀπὸ ἀρχῆς μεχρὶ τέλους, from the beginnig to the ending; but alſo that of *Martial. l.* 10.

Si nimius videor, ſeraq; coroinde longus
Eſſe liber, legito pauca, libellus ero.

And that of *Ovid*,

Candida nec nigra cornua fronte geras.

For in *Turbenus* his judgement thoſe half Moons præfixed were called *Cornua*. Howſoever this may be true touching the daſh, or charecter at the end of the book, and that it was termed *Coronis*; yet I doubt whether any ſuch half Moon was uſually præfixed in the beginning of books, or whether ſuch an half Moon were denoted by the Latine word *Cornu*. More probable is his oipinion, * who treating of this very matter, ſaith, that in old times a whole book was written in one continued page, neither did they then cut their books into many leaves, and bind them up in that manner as we do; but that one entire page in which alone the book was written, was wont to be rolled up upon a ſtaff, faſtned at the end thereof, in manner as many large Maps are

ſ Cic. orat. pro muræn. Mic. Toxit. in orat. Philo.

t Cœl. Rhod. l. 15. c. 20.

u Turn. adv. l. 22. c. 10.

* Pyr. hierog l. 34.

now

now adays with us: hence it is *à volvendo*, that we call our books *Volumnia*, Volumns. This staff on which the book is rolled was called *Umbilicus*; the same word signifieth a navel, which because it is the middle part, and as it were the centre of a mans body, hence approved Authors use the word to signifie the middle of any thing; and haply the name was first given this staff, because when the book was rolled up the staff was the middle thereof: howsoever, because it was fastned alwayes at the end of the page, hence *Umbilicus*, especially when it is applyed to a book, signifieth the end thereof, as *Horace ad umbilicum ducere*, to bring to an end. The two pumels, or ends of this staff, which did jet out and appear on each side of the Volumn, they called *Cornua*; and they were wont to be tipt with Silver, or Gold, or otherwise adorned. The Title which was the beginning of every book, was termed *frons*. This seemeth more probable than that of *Turnebus*, and giveth greater light to that of *Ovid*.

Candida nec nigra cornua fronte geras.

Now that we may proceed to the matter whence we have digressed, it remaineth that we should declare the manner how they enacted their laws. All the *Romans*, though free Citizens, had not power and authority of preferring the law, but only eight of their Magistrates, which they called *Magistratus Majores*, namely the *Prætor*, the *Consuls*, the *Dictator*, the *Interrex*, the *Decem-viri*, the *military Tribunes*, the *Kings*, and the *Trium-viri*, unto these eight were added one of those whom they entituled *Magistratus minores*, namely the *Tribunus plebis*. If any of these Magistrates thought it fit to prefer a law, then did he first write it down at home, and consult with some Lawyer, whether or no it might be for the good of the Commonwealth, whether it should not weaken any former Law, or whether it was not formerly included in some other law, *&c*. These and many other cautions were to be considered before it was preferred;

ferred; yea some would have the approbation of the whole Senate after their advice of the Lawyer, though divers times that hath been omitted, and the Lawyer alone allowing it; the Law was hanged out publickly in the Market place for the space of three Market dayes, which kind of publishing the Law was termed *Legis promulgatio, quasi provulgatio*, during which time of promulgation reasons were alledged *pro* and *con* by the spectators, and all the people had so much time to consult of the conveniency thereof, and every one upon just reason had free liberty to admonish him that preferred the Law, either to amend it, or surcease the proposal. After the third Market day (for unless it were upon an extraordinary occasion, no assembly might be called upon a market day, because of the country folks businesses, they also having freedom of suffraging) the Magistrate did convocate the people to that place where the Law was to be proposed; there the Town-Clerk, or Notary, reading the Law the common Crier proclaimed it; then did he which promulged it, make an oration unto the people, perswading them that it might pass. Sometimes others of his friends would second him with Orations in his behalf, as likewise others that disliked it, would by Orations disswade the people, shewing the inconveniency thereof. After the Orations had been ended, an urn or pitcher was brought unto certain priests there present, into which were cast the names of the Tribes, if the *Comitia* were *Tributa*; or of the Centuries, if they were *Centuriata*; of the Parishes, if *Curiata*: then *sortibus æquatis*, that is, the lots being shaken together, they drew their lots: and that Tribe or Century whose name was first drawn, was called *Tribus vel Centuria prærogativa, à prærogando*, because they were first asked their voices. *Turneb.* interpreting that of *Tully*, *Majores voluerunt prærogativam omnem esse justorum comitiorum*, interprets it, That the *Romans* did so depend upon the prerogative Century, that they would always declare him *Consul* that was chosen by them, *Tur. ad. l. 5. c. 23.*

That

That *Curia* upon which the first lot fell, was called *q Principium*, because that *Curia* did first suffrage: those Tribes upon whom the others lots fell, namely the second, third, fourth, *&c.* were termed *Tribus jure vocatæ*. From this distinction it is, that such a man as hath the voices of the prerogative Tribe or Century is said to have *r Omen prærogativum*: which good fortune howsoever could attain unto, was in great hopes of obtaining the other voices of the *jure vocatæ*; for they never, or very seldom, would swerve from the determination of the prerogative Tribe or Century. Whilst the people were busie in their lottery, in the mean time if any *s* Tribune of the Commons would *intercedere*, that is, forbid the proceeding, he might be heard, and the whole assembly should thereupon be dismissed; likewise they were dismissed, if either he which first promulged the law did alter his opinion, or if the Consul commanded supplications to be offered up in the behalf of their Emperour, or any of those holy-dayes, called, *Feriæ Latinæ vel Imperatoriæ* to be observed upon that day, or if any of the people assembled were taken with the falling sickness (by reason wherof that disease is called by the *t* Physitians at this day *Morbus Comitialis*.) Lastly, the assemblies were dissolved by reason of the Sooth-sayings, which kind of dissolution was caused, either the civil Magistrates observing of signs and tokens in the heavens, and that was called *Spectio*, and sometimes *De Cœlo observatio*; the very act of this observation, though no unlucky token did appear, dissolv'd the assembly: or else it was caused by the *Augures* and civil Magistrate promiscuously, whensoever any evil token was seen or heard, either by the Magistrate, or *Augure*, (amongst which thunder was always counted the unluckiest) at which time the assemblies were in like manner to be dissolved. This manner of dissolution was termed *Obnuntiatio* or *Nunciation Obnunciabat, qui contra auspicia aliqua fieri nunciabat*. Both these kinds are easie to be collected out of that speech in *Tully*, *x Nos Augures nunciationem*

q Rosi n. ant. l. 6. c. 7.

r Cic. pro Muræn.

s Hub. in lib. 1. Cic. ep. fam. 2.

t Fuchsi Inst. medic. l. 3. s. 1.

u Stadius. in Flor. l. 3. c. 7

x Cic. orat. Philip. 2.

lam habemus, Consules & reliqui magistratus etiam spectionem. aHere we may fitly in way of conclusion unto this tract, add just difference to be observed between these phrases, *Promulgare, Rogare, Ferre, & Figere legem. Promulgare legem*, was to hang up a law not yet asked, to the publike view of the people, to be examined by them touching the conveniency thereof. *Rogare legem*, was to use a certain Oration unto the people, to perswade the conveniency of the law; which Oration because it began with this form of words, *Velitis jubeatisve Quirites?* that is, O ye Romans, is it your will and pleasure that this law shall pass or no? Hence was it termed *Legis rogatio. Ferre legem*, was when the law had been approved of by the people, then, to write it down upon record, and so to lay it up in the treasure house: *y Cum approbata fuisset lex, in æs incidebatur, & in ærario condebatur, & tunc demum lata dicebatur.* Lastly, *Figere legem*, was to publish the law after it had been approved and recorded *z* by hanging it up in tables of brasse in their Market places, or at their Church doors. Hence it is that we use *a Tabulam figere* in the same sence, namely to enact or establish a law, and *Refigere legem*, to disprove or cancel a law *b* And that which was determined *Comitiis curiatis*, was termed *Lex curiata*; that which was *Comitiis centuriatis*, *Lex Centuriata*; that which was *Comitiis tributis*, was not called a law, but *Plebiscitum.*

y F. Maturantius in Phil. 1

z Cor. Tacit. annal. l. 11.

a F. Matur. in Phil. 12.

b Sig. de jure pro. l. 3. c. 1.

CAP. 3.
De Comitiis Curiatis.

Comitia Curiata were those, wherein the Roman people being divided into thirty, Parishes, did give their suffrages: They were so called from *Curia*, signifying a Parish. And untill *Servius Hostilius* his time, who did first institute the *Comitia centuriata*, all things which were determined by the suffrages of the people, were determined by these *Curia comitiata*: But after the other two sorts

of assemblies had been established, these *Curiata* were used only either for the enacting of some particular laws, or for the creating of some certain Priests called *Flamines*. For the better understanding hereof, we must remember, that though at first these thirty Parishes were parts of the three Tribes (each Tribe being divided into Parishes) yet in process of time the increase of the Roman people was such, that a great part of the Roman fields were filled with buildings and places of habitation, insomuch that the Tribes of the Romans were increased to thirty five: but the Parishes (because none that dwelt out of the city were tied to the rites and ceremonyes of the Roman Religion) did not increase, so that the parishes did not alwayes remain parts of the Tribes. Hence it followeth, that all the Romans had not power to suffrage in these assemblies, but those alone who dwelt within the city, for no other could be of any Parish. The place where these assemblies were held, was the great Hall of Justice, called from these assemblies *Comitium*. Before these assemblies were held, it was required that some lawfull Magistrate for some competent time before-hand should solemnly proclaim them, and the thirty Serjeants (each Parish having for that purpose his Serjeant) should call the people together: as likewise three *Augures*, or at least, one should be present to assure them by their observations, either of the favour or displeasure of the Gods. Upon these premises the matter was proposed unto the people, who if they liked it, then they proceeded unto their election; if otherwise they disliked it, then did the *Tribunus plebis intercedere*, that is, forbid their proceedings: whereupon their assemblies were presently dissolved.

CAP.

CAP. 4.
De Comitiis Centuriatis.

AS thoſe former aſſemblies were called *Curiata á curiis*, ſo were theſe called *Centuriata à centuriis. Servius Tullius* cauſed a general valuation of every Citizens eſtate throughout *Rome*, to be taken upon record, together with their age, and according to their eſtates and age, he divided the Romans into ſix great Armies or Bands, which he called *Claſſes*; though in truth there were but five of ſpecial note; the ſixth contained none but the poorer ſort, and thoſe of no worth or eſteem. The valuation of thoſe in the firſt *Claſſis*, was not under two hundred pounds; and they alone by way of Excellency were termed *Claſſici*; and hence figuratively are our beſt and worthieſt Authors called *Claſſici ſcriptores*, Claſſical Authors. *d* All the others, though they were inrolled in the ſecond, third, or any other *Claſſis*, yet were they ſaid to be *Infra claſſem*. The valuation of the ſecond Band was not under ſevenſcore pounds. The valuation of the third was not ſo little as an hundred pounds. Of the fourth not leſs than forty pounds. Of the fifth not leſs than twenty five pounds. The ſixth contained the poorer ſort, whom *Horace* calleth *Tenuis cenſus homines*, men of ſmall ſubſtance; and alſo they were called *Proletarii, a munere ſficioq́, prolis edendæ*, as if the only good that they did to the Common-weal, were in begetting of children; and ſometimes they were called *Capite cenſi*, that is, ſuch as paid very little or nothing at all towards ſubſidies, but only they were regiſtred among the citizens, as it appeareth by *e Sigonius*. Theſe ſix great bands or Armies were ſubdivided into hundreds, called in Latine *Centuriæ*. The firſt Claſſis contained fourſcore centuries of footmen, and eighteen of horſemen; The ſecond contained twenty centuries of footmen and two of workmen, which followed after to make

d A Gel. l. 7. c. 13.

e Sig. de jur. Rom. l. c. 4.

military engines and weapons: The third also, as likewise the fourth, contained twenty centuries of footmen, but to the fourth was added two other centuries of Trumpeters, Drummers, and such like, who upon just occasion did *Classicum canere*, sound the Alarum, and upon just occasion did again *receptui canere*, sound the retreat. The fifth classis contained thirty centuries of footmen: the sixth or last Classis contained one century: so that in all the 6. Classes were contained 193. centuries. Where we must note, that all the centuries of footmen did consist, the one halfe in every Classis of the younger sort, who were to make war abroad upon the enemies; the other halfe of old men, who remained at home for the safety of the City. All that hath been hitherto spoken of these *Centuriata Comitia*, may be collected out of *Sigonius* in the place above quoted. The cheif Commander of every century was called *Centurio*; the rod or tip-staff wherewith he did strike his Souldiers to keep them in array, was called by *Pliny*, *Centurionum vitis*. So then we may perceive, that those *Centuriata comitia* were those wherein the people did give their voices by centuries or hundreds. Now the centuries did not consist of those alone which had their places of habitation at *Rome*, but of certain *Municipal* States also, and such Colonies or other States that could *d plenum civitatis jus cum jure suffragii adipisci*. e Now the custome in old time was, that all these centuries should march in their armour after the Magistrate which assembled them into the *Campus Martius*, there to give their voices. But this custome continued not long: for thereby they did disarm the City, and give their enemies (if any should assaile them in time of their assemblies) the greater advantage; for their greater security thereof, they appointed a flag to be hanged out upon the Mount *Janiculus*, some few armed men standing there in watch and ward for the safeguard of the City; and when the assembly was to be dissolved, then did the watch depart, and the flag was taken down: neither could

d Rosin. ant. l. 6. c. 10.
e Rosin. ant. Rom. l. 6. c. 16.

could any thing after that be determined, but if they continued their assemblies, then did they proceed to the giving of their voices, in old time thus: Those centuries of the Classis being the wealthier had the prerogative of suffraging first, and because this first Classis contained more centuries than all the rest, therefore if they could agree among themselves, the other centuries were never asked their voices. This kind of suffraging being somewhat partiall, inasmuch as the richer and wealthier being placed in the first Classis, did oversway the elections against the poorer sort of people, thence did the after ages appoint that that century should have the prerogative of suffraging first, upon whom the lot fell. The other centuries were called *f centuriæ Jure vocatæ*, and did give their voices, not by lots (as the *Tribus Jure vocatæ* did) but the elder and wealthier centuries did suffrage next after the prerogative century, according as their place required.

f Kosin. ant. Rom. l. 6. c. 20.

CAP. 5.
De comitiis Tributis.

FOr the better understanding of these assemblies by Tribes or Wards, it will be needful first to learn, that this word *Tribus* in this place doth signifie a certain region, ward, or local place of the City, or the fields belonging thereunto, according to that *g Tributa Comitia erant, cum ex regionibus & locis suffragabantur.* It was so called either *à tributo dando*, every several region or quarter paying such a tribute: or *quia primo tres tantum fuerunt*, the whole City being at first divided only into three regions, or wards, each national Tribe having his several region, or local Tribe to dwell in. The first national tribe called *Ramnenses*, did inhabit the Mount *Palatine*, and the Mount *Cælius*; and those two hills made the first local tribe. The second national tribe called *Tatienses*, did inhabit the *Capitol*, and the *Quirinal* Mountain, which two

g A gel. l. 15. c. 27.

Mountains made the second local tribe. The third national tribe did inhabit the plain between the *Capitol* and the *Palatine* Hill, and that plain was called the third local tribe. Of these tribes more is spoken in the first division of the Roman people. Only here we must note thus much, that in process of time, after the City was inlarged, and the number of the Roman Citizens increased, these local tribes were also augmented, so that they amounted at the last to the number of 35. some of them being called *Urbanæ*, others *Rusticæ*; *Urbanæ ab urbis regionibus. Rusticæ ab agri partibus erant nuncupatæ.* And of those two sorts, the *Tribus rusticæ* were accounted the more honourable. Moreover we must remember, that a man might be reputed of this or that tribe, although he had no place or habitation therein. Concerning the place where these *Tributa comitia* were had, sometime they fell out to be in the *Campus Martius*, sometimes in their great Hall of Justice called *Comitium*, sometimes in the *Capitol*; many times in other places, according to the discretion of the Magistrate which caused these Assemblies.

h Sig. de jur. Rom. l. 1. c. 3.

CAP. 6.
De Candidatis.

IT shall not be impertinent to annex some necessary observations touching the Roman Petitors or Suitors for bearing office: where we will observe these three phrases, *Ambire magistratum*, *Inire magistratum*, & *abire magistratu*. The first signifieth, to sue for an office: the second, to enter into the office: the third, to depart out of the office. Again, the difference of these phrases, *Conficere legitima suffragia*, & *Explere suffragia*. *i*. The first signifieth, to have so many voices as the law doth require. The second signifieth, to have more voices than any other Competitor, but not so many as the law requireth.

i Rosin. ant. Rom. l. 10. c. 6

These persons were termed *Candidati*, *à toga candida*, from the white gown which they did wear, as it appeareth

eth more at large, where we have ſpoken *de Romana toga.* That they might the eaſier procure the good-will of the people, theſe four things were expected from them. Firſt, *Nomenclatio*, the ſaluting of every Citizen by his name; for the better diſcharge of which, they had a certain follower, which ſhould by way of prompting tell every Citizen his name as he paſſed by, and hence this prompter was ſometime called a *nomenclator*, which word doth properly ſignifie a common crier in a Court of Juſtice, ſuch as call men to their appearance, whence they had their names from *Nomen* and *calo*, an old Latine word to call; ſomtimes *b Monitor*, ſometimes *Farcy ab infarciendo in aures.* 2 *Blanditia*, that is, a friendly compellation by the addition of ſome complemental name, as well-met friend, brother, father, *&c.* 3. *Aſſiduitas*, that is, an hot canvaſing, or ſoliciting men without intermiſſion. Laſtly, *Benignitas*, a bountiful or liberal largeſs or dole of money called *congiarium*, from the meaſure *Congius*, containing a Gallon; becauſe their *l* dole was at the firſt made of oyl or wine diſtributed in thoſe meaſures. Howbeit χάρισμα, any dole, gift or largeſs in money, or otherwiſe, is called *Congiarium.* The diſtributers of this dole were called *m diviſores & n ſequeſtres*, although ſomtimes *ſequeſter* ſignified a briber or corrupter of a Judg. Likewiſe their bounty or liberality conſiſted in providing great dinners, and exhibiting magnificent ſhews unto the people, *&c.* Where we muſt obſerve, that as often as this largeſs is called *Largitio*, it is taken in the worſt ſence, namely for an unlawful bribing of the ſuffragers under a pretended largeſs, *o Benignitas liberalitatem magis ſignificat quam largitionem.*

Roſin. ant. Rom. l. 7. c. 8

a Cic. orat. pro L. Mur. Me recemur. ſervum qui dictet nomina, &c. Hor. l. 1. ep. 6.

b Cic. loco ſupra citato.

l G. Trapez. in Philip. 2.

m Sig. de jur. l. 2. c. 29.

n Bart. Lat. in orat. pro M. Cœl.

o Cic. orat. L. Muræn.

CAP. 7.
De Romanis veſtibus.

WE may obſerve in reading old Authors, that as well the *Romans* as the *Gracians*, had divers diſtinct

ſtinct habits, or outward veſtiments. The *Grecians* had their Mantle called *Pallium*, the *Romans* their Gown called *Toga*: and by this different kind of garments the one was ſo certainly diſtinguiſhed from the other, that this word *Togatus* was often uſed to ſignifie a *Roman*, & *Palliatus* a *Grecian*. f *Togati pro Romanis dicti, ut Pallati pro Græcis.* Before we proceed, we will firſt obſerve what this *Toga* was, and then how many ſorts there were. g *Toga, à tegendo dicta eſt.* It was made commonly of wooll, but according to the worth and dignity of the perſon, ſometimes of a courſer, ſometimes of a finer wooll; as we may collect by that of *Horace*

Mihi ſit toga, quæ defendere frigus
Quamvis craſſa queat

We muſt note with *Turſita*, that no woman of any credit did wear the *Roman* Gown, but inſtead thereof did uſe a garment called *Stola*, from στολὴ, ſigni ying *demitto, quod uſq; ad talos demitteretur*: Whence old Poets, when they would point out unto us an infamous or lewd ſtrumpet, they would term her i *mulierem togatam.* k This *Toga* ſometimes was worn open and unruckt; then was it called *Toga aperta*: other times it was ruckt up, and then it was called *Toga precincta*. This cincture or girding up of the gown, was according to l *Sigonius*, threefold; *Cinctura laxior, aſtrictior* and *Cinctus Gabinus*; *Cinctura laxior*, or the looſe kind of girding was ſuch, that nowithſtanding the tuck, yet the tail trailed on the ground; *Cinctura aſtrictior*, the cloſe kind of girding was ſuch, that after the gown had been lapped, or tucked up, it ſhould not reach ſo far as the feet. The firſt kind of theſe cinctures did argue a remiſs, ſoft, and effeminate mind: the latter did ſignifie the promptneſs or readineſs of the perſon, m *Undè, Alte præcincti, pro expeditis dicti ſunt.* 3 *Cinctus Gabinus* was a warlike kind of girding, not ſo that the whole gown ſhould be tucked up about the middle, but that it being caſt quite backward, the party ſhould gird himſelf with one skirt thereof

f Sig. de jud. l. 3. c. 19.

g Mic. toxit. in orat. Phil. 2.

Mic. tox. ib.

i Roſin. ant. Rom.

k Sig. de jud. l. 3. c. 19.

l Sig. ib.

m Sig. ib.

lam habemus, Conſules & reliqui magiſtratus etiam ſpectionem. aHere we may fitly in way of concluſion unto this tract, add juſt difference to be obſerved between theſe phraſes, *Promulgare, Rogare, Ferre, & Figere legem. Promulgare legem*, was to hang up a law not yet asked, to the publike view of the people, to be examined by them touching the conveniency thereof. *Rogare legem*, was to uſe a certain Oration unto the people, to perſwade the conveniency of the law; which Oration becauſe it began with this form of words, *Velitis juſſeatiſve Quirites?* that is, Oye Romans, is it your will and pleaſure that this law ſhall paſs or no? Hence was it termed *Legis rogatio. Ferre legem*, was when the law had been approved of by the people, then, to write it down upon record, and ſo to lay it up in the treaſure houſe: *y Cum approbata fuiſſet lex in æs incidebatur, & in ærario condebatur, & tunc demum lata dicebatur.* Laſtly, *Figere legem*, was to publiſh the law after it had been approved and recorded *z* by hanging it up in tables of braſſe in their Market places, or at their Church doors. Hence it is that we uſe *a Tabulam figere* in the ſame ſence, namely to enact or eſtabliſh a law, and *Refigere legem*, to diſprove or cancel a law *b* And that which was determined *Comitiis curiatis*, was termed *Lex curiata*; that which was *Comitiis centuriatis*, *Lex Centuriata*; that which was *Comitiis tributis*, was not called a law, but *Pleb liſcitum.*

y F. Maturantius in Phil. 1

z Cor. Tacit. annal. l. 11.

a F. Matur. in Phil. 12.

b Sig. de jure pro. l. 3. c. 1.

CAP. 3.
De Comitiis Curiatis.

Comitia Curiata were thoſe, wherein the Roman people being divided into thirty, Pariſhes, did give their ſuffrages: They were ſo called from *Curia*, ſignifying a Pariſh. And untill *Servius Hoſtilius* his time, who did firſt inſtitute the *Comitia centuriata*, all things which were determined by the ſuffrages of the people, were determined by theſe *Curia comitiata*: But after the other two ſorts

of assemblies had been established, these *Curiata* were used only either for the enacting of some particular laws, or for the creating of some certain Priests called *Flamines*. For the better understanding hereof, we must remember, that though at first these thirty Parishes were parts of the three Tribes (each Tribe being divided into Parishes) yet in process of time the increase of the Roman people was such, that a great part of the Roman fields were filled with buildings and places of habitation, insomuch that the Tribes of the Romans were increased to thirty five: but the Parishes (because none that dwelt out of the city were tied to the rites and ceremonyes of the Roman Religion) did not increase, so that the parishes did not alwayes remain parts of the Tribes. Hence it followeth, that all the Romans had not power to suffrage in these assemblies, but those alone who dwelt within the city, for no other could be of any Parish. The place where these assemblies were held, was the great Hall of Justice, called from these assemblies *Comitium*. Before these assemblies were held, it was required that some lawfull Magistrate for some competent time before-hand should solemnly proclaim them, and the thirty Serjeants (each Parish having for that purpose his Serjeant) should call the people together: as likewise three *Augures*, or at least, one should be present to assure them by their observations, either of the favour or displeasure of the Gods. Upon these premises the matter was proposed unto the people, who if they liked it, then they proceeded unto their election; if otherwise they disliked it, then did the *Tribunus plebis intercedere*, that is, forbid their proceedings: whereupon their assemblies were presently dissolved.

CAP.

CAP. 4.
De Comitiis Centuriatis.

AS thoſe former aſſemblies were called *Curiata à curiis*, ſo were theſe called *Centuriata à centuriis. Servius Tullius* cauſed a general valuation of every Citizens eſtate throughout *Rome*, to be taken upon record, together with their age, and according to their eſtates and age, he divided the Romans into ſix great Armies or Bands, which he called *Claſſes*; though in truth there were but five of ſpecial note; the ſixth contained none but the poorer ſort, and thoſe of no worth or eſteem. The valuation of thoſe in the firſt *Claſſis*, was not under two hundred pounds; and they alone by way of Excellency were termed *Claſſici*; and hence figuratively are our beſt and worthieſt Authors called *Claſſici ſcriptores*, Claſſical Authors. *d* All the others, though they were inrolled in the ſecond, third, or any other *Claſſis*, yet were they ſaid to be *Infra claſſem*. The valuation of the ſecond Band was not under ſevenſcore pounds. The valuation of the third was not ſo little as an hundred pounds. Of the fourth not leſs than forty pounds. Of the fifth not leſs than twenty five pounds. The ſixth contained the poorer ſort, whom *Horace* calleth *Tenuis cenſus homines*, men of ſmall ſubſtance; and alſo they were called *Proletarii, a munere efficiog; prolis edendæ*, as if the only good that they did to the Common-weal, were in begetting of children; and ſometimes they were called *Capite cenſi*, that is, ſuch as paid very little or nothing at all towards ſubſidies, but only they were regiſtred among the citizens, as it appeareth by *e Sigonius*. Theſe ſix great bands or Armies were ſubdivided into hundreds, called in Latine *Centuriæ*. The firſt Claſſis contained fouricore centuries of footmen, and eighteen of horſemen; The ſecond contained twenty centuries of footmen and two of workmen, which followed after to make

d A Gel. l. 7. c. 13.

e Sig. de jur. Rom. l. c. 4.

military engines and weapons: The third alſo, as likewiſe the fourth, contained twenty centuries of footmen, but to the fourth was added two other centuries of Trumpeters, Drummers, and ſuch like, who upon juſt occaſion did *Claſſicum canere*, ſound the Alarum, and upon juſt occaſion did again *receptui canere*, ſound the retreat. The fifth claſſis contained thirty centuries of footmen: the ſixth or laſt Claſſis contained one century: ſo that in all the 6. Claſſes were contained 193. centuries. Where we muſt note, that all the centuries of footmen did conſiſt, the one halfe in every Claſſis of the younger ſort, who were to make war abroad upon the enemies; the other halfe of old men, who remained at home for the ſafety of the City. All that hath been hitherto ſpoken of theſe *Centuriata Comitia*, may be collected out of *Sigonius* in the place above quoted. The cheif Commander of every century was called *Centurio*; the rod or tip-ſtaff wherewith he did ſtrike his Souldiers to keep them in array, was called by *Pliny*, *Centurionum vitis*. So then we may perceive, that thoſe *Centuriata comitia* were thoſe wherein the people did give their voices by centuries or hundreds. Now the centuries did not conſiſt of thoſe alone which had their places of habitation at *Rome*, but of certain *Municipal* States alſo, and ſuch Colonies or other States that could *d Plenum civitatis jus cum jure ſuffragii adipiſci*. *e* Now the cuſtome in old time was, that all theſe centuries ſhould march in their armour after the Magiſtrate which aſſembled them into the *Campus Martius*, there to give their voices. But this cuſtome continued not long: for thereby they did diſarm the City, and give their enemies (if any ſhould aſſaile them in time of their aſſemblies) the greater advantage; for their greater ſecurity hereof, they appointed a flag to be hanged out upon the Mount *Janiculus*, ſome few armed men ſtanding there in watch and ward for the ſafeguard of the City: and when the aſſembly was to be diſſolved, then did the watch depart, and the flag was taken down: being

d Roſin. ant. l. 6. c. 10.
e Roſin. ant. Rom. l. 6. c. 16.

could any thing after that be determined, but if they continued their aſſemblies, then did they proceed to the giving of their voices, in old time thus: Thoſe centuries of the Claſſis being the wealthier had the prerogative of ſuffraging firſt, and becauſe this firſt Claſſis contained more centuries than all the reſt, therefore if they could agree among themſelves, the other centuries were never asked their voices. This kind of ſuffraging being ſomewhat partiall, inaſmuch as the richer and wealthier being placed in the firſt Claſſi, did overſway the elections againſt the poorer ſort of people, thence did the after ages appoint that that century ſhould have the prerogative of ſuffraging firſt, upon whom the lot fell. The other centuries were called *f centuriæ Jure vocatæ*, and did give their voices, not by lots (as the *Tribus Jure vocate* did) but the elder and wealthier centuries did ſuffrage next after the prerogative century, according as their place required.

f Koſin. ant. Rom. l. 6. c. 20.

CAP. 5.
De comitiis Tributis.

FOr the better underſtanding of theſe aſſemblies by Tribes or Wards, it will be needful firſt to learn, that this word *Tribus* in this place doth ſignifie a certain region, ward, or local place of the City, or the fields belonging thereunto, according to that *g Tributa Comitia erant, cum ex regionibus & locis ſuffragabantur.* It was ſo called either *à tributo dando*, eve y ſeveral region or quarter paying ſuch a tribute: or *quia primo tres tantum fuerunt*, the whole City being at firſt divided only into three regions, or wards, each national Tribe having his ſeveral region, or local Tribe to dwell in. The firſt national tribe called *Ramnenſes*, did inhabit the Mount *Palatine*, and the Mount *Cœlius*; and thoſe two hills made the firſt local tribe. The ſecond national tribe called *Tatienſes*, did inhabit the *Capitol*, and the *Quirinal* Mountain, which two

g A gel. l. 15. c. 27.

Mountains made the second local tribe. The third national tribe did inhabit the plain between the *Capitol* and the *Palatine* Hill, and that plain was called the third local tribe. Of these tribes more is spoken in the first division of the Roman people. Only here we must note thus much, that in process of time, after the City was inlarged, and the number of the Roman Citizens increased, these local tribes were also augmented, so that they amounted at the last to the number of 35. some of them being called *Urbanæ*, others *Rusticæ*; *h Urbanæ ab urbis regionibus. Rusticæ ab agri partibus erant nuncupatæ.* And of those two sorts, the *Tribus rusticæ* were accounted the more honourable. Moreover we must remember, that a man might be reputed of this or that tribe, although he had no place or habitation therein. Concerning the place where these *Tributa comitia* were had, sometime they fell out to be in the *Campus Martius*, sometimes in their great Hall of Justice called *Comitium*, sometimes in the *Capitol*, many times in other places, according to the discretion of the Magistrate which caused these Assemblies.

h Sig. de jur. Rom. l. 1. c. 3.

CAP. 6.
De Candidatis.

IT shall not be impertinent to annex some necessary observations touching the Roman Petitors or Suitors for bearing office: where we will observe these three phrases, *Ambire magistratum*, *Inire magistratum*, & *abire magistratu*. The first signifieth, to sue for an office: the second, to enter into the office: the third, to depart out of the office. Again, the difference of these phrases, *Conficere legitima suffragia*, & *Explere suffragia*. *i*. The first signifieth, to have so many voices as the law doth require. The second signifieth, to have more voices than any other Competitor, but not so many as the law requireth.

i Rosin. ant. Rom. l. 20. c. 6

These persons were termed *Candidati*, *à toga candida*, from the white gown which they did wear, as it appeareth

eth more at large, where we have spoken *de Romana toga.* That they might the easier procure the good-will of the people, these four things were expected from them. First, *Nomenclatio*, the saluting of every Citizen by his name; for the better discharge of which, they had a certain follower, which should by way of prompting tell every Citizen his name as he passed by, and hence this prompter was sometime called a *nomenclator*, which word doth properly signifie a common crier in a Court of Justice, such as call men to their appearance, whence they had their names from *Nomen* and *calo*, an old Latine word to call; somtimes *b Monitor*, sometimes *Fartor ab infarciendo in aures.* 2 *Blanditia*, that is, a friendly compellation by the addition of some complemental name, as well-met friend, brother, father, *&c.* 3. *Assiduitas*, that is, an hot canvasing, or soliciting men without intermission. Lastly, *Benignitas*, a bountiful or liberal largess or dole of money called *congiarium*, from the measure *Congius*, containing a Gallon; because their *l* dole was at the first made of oyl or wine distributed in those measures. Howbeit κατ' χρηστικως, any dole, gift or largess in money, or otherwise, is called *Congiarium.* The distributers of this dole were called *m divisores & n sequestres*, although somtimes *sequester* signified a briber or corrupter of a Judg. Likewise their bounty or liberality consisted in providing great dinners, and exhibiting magnificent shews unto the people, *&c.* Where we must observe, that as often as this largess is called *Largitio*, it is taken in the worst sence, namely for an unlawful bribing of the suffragers under a pretended largess, *o Benignitas liberalitatem magis significat quam largitionem.*

Rosin. ant. Rom. l. 7. c. 8

a Cic. orat. pro L. Mur. Mercemur. servum qui dictet nomina, &c. Hor. l. 1. ep. 6.

b Cic. loco supra citato.

l G. Trapez. in Philip. 2.

m Sig. de jur. l. 2. c. 29.

n Bart. Lat. in. orat. pro. M. Cœl.

o Cic. orat. L. Muræn.

CAP. 7.

De Romanis vestibus.

WE may observe in reading old Authors, that as well the *Romans* as the *Græcians*, had divers distinct

ſtinct habits, or outward veſtiments. The *Grecians* had their Mantle called *Pallium*, the *Romans* their Gown called *Toga*: and by this different kind of garments the one was ſo certainly diſtinguiſhed from the other, that this word *Togatus* was often uſed to ſignifie a *Roman*, &

f Sig. de jud. l. 3. c. 19. *Palliatus* a *Grecian*. f *Togati pro Romanis dicti, ut Pallati pro Græcis*. Before we proceed, we will firſt obſerve what this *Toga* was, and then how many ſorts there were.

g Mic. toxit. in orat. Phil. a. g *Toga, à tegendo dicta eſt*. It was made commonly of wooll, but according to the worth and dignity of the perſon, ſometimes of a courſer, ſometimes of a finer wooll; as we may collect by that of *Horace*

Mihi ſit toga, quæ defendere frigus
Quamvis craſſa queat

Mic. tox. ib. We muſt note with *Texita*, that no woman of any credit did wear the *Roman* Gown, but inſtead thereof did uſe a garment called *Stola*, from στελλω ſignifying *demitto, quod uſq; ad talos demitteretur*: Whence old Poets, when they would point out unto us an infamous or lewd ſtrumpet, they would term her i *mulierem togatam*. k This *Toga* ſometimes was worn open and unbuckt; then was it called *Toga aperta*: other times it was tuckt up, and then it was called *Toga precincta*. This cincture or girding up of the gown, was according to l *Sigonius*, threefold; *Cinctura laxior, aſtrictior* and *Cinctus Gabinus*; *Cinctura laxior*, or the looſe kind of girding was ſuch, that nowithſtanding the tuck, yet the tail trailed on the ground; *Cinctura aſtrictior*, the cloſe kind of girding was ſuch, that after the gown had been lapped, or tucked up, it ſhould not reach ſo far as the feet. The firſt kind of theſe cinctures did argue a remiſs, ſoft, and effeminate mind: the latter did ſignifie the promptneſs or readineſs of the perſon, m *Undè, Alte præcincti, pro expeditis dicti ſunt*. 3 *Cinctus Gabinus* was a warlike kind of girding, not ſo that the whole gown ſhould be tucked up about the middle, but that it being caſt quite backward, the party ſhould gird himſelf with one skirt thereof

i Roſin. ant. Rom.

k Sig. de jud. l. 3. c. 19.

l Sig. ib.

m Sig. ib.

of. *n* This kind of girding was so called from a certain City of *Campania*, called *Gabii*, because upon a time the inhabitants of this City being at sacrifice, were set upon by their enemies; at which time they casting their Gowns behind them, and girding one lappet or skirt about them, went immediately to war, even from the altars, and got the conquest. *o* In memory of which ever after, the *Consul* when he should proclaim war, girded himself in like manner. Neither had the *Consul* alone a peculiar garment when he proclaimed war, but every Souldier in time of war did wear a different kind of garment from the Gown, which they called *Sagum*: we may English it a Souldiers Coat. Whence *Tully* useth this phrase, *ad saga ire*, which *Erasmus* hath parallel'd with this, *Ad certamen se accingere*, to buckle for war. Insomuch that *Cedant saga togæ*, is equivalent to that of the Orator, *Cedant arma togæ*. Touching the difference of the Roman Gowns, I find them distinguished by *p Sigonius* according as followeth; in *Togam Puram, Candidam, Pullam, Prætextam, Paludamentum, Pictam, Trabeam. Toga pura* was the common ordinary Gown worn by new married women, and *Tanaquil prima texuit rectam tunicam, quia simul cum toga pura tyrones induuntur, novæq; nuptæ. Plin. l.8.c.48.* and by private men at mans estate, about the sixteenth year of their age, at which time they were said *excedere ex Ephæbis*, that is, to be past striplings. Notwithstanding the sixteenth year was not always strictly without exception observed: *q* for *M. Aurelius* was permitted to wear this Gown being but fifteen years old: and *Caligula* did not wear it till the nineteenth year of his age. This kind of Gown beside that it was called *Pura*, was also sometimes called *virilis*, sometimes *libera*. It was called *Pura* in respect of its pure white colour, being free from all admixtures of purple, or any other colour: and and therefore some have termed it ὁλόλευκος, all white, others ἀπόρφυρος, void of purple. It was called *virilis*, because it was given to striplings, now growing to mans estate.

n Serv. Æn. id. l. 7.

o Alex. Gen. dier. l. 1. c. 14.

p Sig. de Jud. l. c. 3. 19.

q Rosin. ant. l. 7. c. 30.

Et toga non rasas vincere jussa nives. Mart.

Whence we uſe to ſay of a ſtripling paſt ſixteen years of his age, *virilem togam ſumpſit*, he is now become a man. Laſtly, it was called *libera*, [r] becauſe then they did receive ſome beginnings of freedom, as being about that time freed from their ſchoolmaſters and overſeers. This kind of Gown was not made open, but ſewed down to the bottom, and alſo it was made without ſleeves, ſo that if at any time they had occaſion to uſe their arms, they would take up their Gown and caſt it quite behind them, or upon their ſhoulders. But theſe ſtriplings could not for one whole years ſpace, caſt back their Gowns in that manner for their liberty of their arms without the imputation of immodeſty, as appeareth by [t] *Cic. Nobis annus erat unus ad cohibendum brachium toga conſtitutus.* The like liberty it ſeemeth was denied thoſe that ſtood for places of office: [u] and thence it is, that *Horace* wiſheth ſuch to hire them a ſervant,

[r] Roſin. ant. Rom. l. 5. c. 32.

All. manu.

[t] Cic. in orat. pro Cœlio.

[u] Sig. de Jud. l. 3. c. 19.

——*Lævum*
Qui fodiat latus, & cogat trans pondera dextram
Porrigere——

In which place by *Pondera* is underſtood the Roman Gown, as [x] *Sigonius* hath expounded that place. Now for the underſtanding of *Toga candida*, we are to learn a difference between this *candida toga*, and the *toga pura* above ſpoken of, which is ſometimes called *toga alba*, both of which were white, but differed in the degree of whiteneſs. The *toga alba* had only the natural whiteneſs of the wooll, the *toga candida* had an artificial white dye, whereby the gloſs of the white was made more orient and intenſive. Or elſe as [y] *Sigonius* hath obſerved out of *Iſidorus*, *intendendæ albedinis cauſa cretam addiderant*, that is, they chalked it to increaſe the whiteneſs thereof. And hereunto *Perſius* alludeth:

[x] Sigon. ib.

[y] Sigon. ib.

——*Quem dueit hiantem Cretata ambitio.*

Whence *Polybius* calleth it *togam*, λαμπρὰν, that is, ſhining or ſplendent. Moreover, whereas the *alba toga* was the ordinary Roman Gown which commonly the Roman Citizen

Citizens did wear, this *candida toga* was only worn by those which did *ambire magistratum*, sue for a Magistracy, or place of office, who during the time of their sute, were called from their Gown, *Candidati*: and *Quintilian* borrowing his Metaphor from them, hath called a young student *eloquentiæ candidatum*. The third sort of Gown, which I termed *Togam pullam*, was a black Gown, and thereof were two several kinds: the one coal-black, which was worn *luctus causa*, in token of mourning; and the mourners were thence called *Atrati*, and as often as they did wear this Gown, they were said *mutare vestem*, z which phrase in old Authors, doth signifie nothing else but to go in mourning apparel: The other not coal-black, but only foul'd or stained, and that was worn *reatus causa*, in times of arraignment, and those that wore it, were called *Sordidati*, *à sordibus in veste*, from the spots or stains in the Gown. Where we must note, that in process of time *Toga pulla* became the ordinary Gown which the common people did wear; at which time the ordinary Gown which the Citizens of better place and esteem did wear, was the *toga candida*; whereupon there did then grow a distinction of the Citizens, unknown to the former age, saith *Rosinus*, namely, that some were termed *candidati*, others *pullati*: *Candidati* were those, not which became suters for places of Office (as in old-time it signified) but those which did live in better repute than others; from whence it is, that a he whose office was to read the Emperours Letters in the Senate, was called *Candidatus Principis*, or *Quæstor candidatus*. It did somewhat resemble the Office of the King his Majesties chief Secretary. *Pullati* were those of the commonalty or inferiour sort. The fourth sort of Gown was the *Toga prætexta*, so called, *quia ei purpura prætexta erat*, because it was guarded about with purple silk. This kind of Gown at the first was used only by the *Roman* Priests, and chief Magistrates: Neither was it lawful for such as did wear that Gown to be arraigned, or sentence to be given on them,

z Sig. de Jud. l. 3. c. 19. Cic. orat. pro P. Sext. Suum dolorum veste mutata significabant Romani.

a Feuest. de Mag. Rom. c. 3.

until that Gown was put off. In continuance of time this *toga prætexta* was permitted first to Noble mens children, afterward to all *Roman* children in general: whereupon *b Togatus à prætexto differt ut privatus à magistratu, & vir à puero*; and *ætas prætexta* is taken for childhood, and *prætextati* sometimes for Magistrates, but commonly for young children. The fifth sort of Gown was called *Paludamentum*; it was a Military garment, which *c* none but the Lord General, or the chief Captains did use to wear. *d Isidorus* said it was not only guarded with purple, but with scarlet and gold lace: whence it was sometimes called *e Toga purpurea*, sometimes *coccinea*. It was much like the habit which the *Grecian* Emperour was wont to wear, called *f Chlamys*; yea, now it is called *Chlamys*; we may English it an *Heralds* Coat of Arms. The sixth sort of Gown was called *Toga picta*, *g* because in it was embroidered goodly pictures with needle-work: It was also called *Purpurea*, not because of any purple-guard (in which respect the *Prætexta*, and the *Paludamentum* were called *Purpurea*) but because it was all over of a purple dye: it was by some termed *toga palmata*, because in it many Palm branches being the reward and token of Victory were wrought, whence by others it was called *toga triumphalis*, because Emperours in their triumphs did wear such Gowns. The last sort of Gown was *Trabea*, whereof there were *h* three several kinds; the one woven all of purple, which was consecrated unto the gods, the second was purple woven upon white, and this only Kings and Consuls might wear: the third was scarlet woven upon purple, and this the *Augures* onely did wear. *i* This last sort was therefore called *Trabea auguralis*, the second *Trabea regia*, the third *Trabea consecrata*.

b P. Pelitar. in orat. pro *A.* Cœcinna.

c Alex. Gen. dier. l. 5. c. 18.

d Sig. de Jud. l. 3. c. 19.

e Sig. ibid.

f Rosin. ant. l. 5. c. 31.

g Sig. de Jud. l. 3. c. 19.

h Serv. Æn. l. 7

i Alex. Gen. dier. l. 5. c. 18.

CAP.

CAP. 8.
De Tunica.

THoſe Coats which were worn under the Gown, were called *Tunicæ*; and that they were worn under the Gown, it appeareth by that Adage, *Tunico pallio propior eſt*, that is, Every one for himſelf firſt; or according to our Engliſh Proverb, Cloſe ſitteth my ſhirt, but cloſer ſitteth my skin. *k* This *Tunica* was both narrower and ſhorter than the Gown: at firſt it was made without ſleeves, afterwards with ſleeves, and by it, as well as by the Gown were Citizens diſtinguiſhed. The firſt ſort of Coats was made of white cloth commonly, *l* but purfled over and embroidered with ſtuds of purple in manner of broad nail heads; whence it was called *Laticlavia*, or *Latus clavus*; and the perſons wearing this Coat were Senators, called thence *Laticlavii*. The ſecond ſort belonged unto the *Roman* Knights, and it differed in making from the firſt, only that the purple ſtuds or embroidred works of this, were not ſo broad as the former: whence the Coat was called *Anguſticlavia*, or *Anguſtus clavus*, and the perſons wearing it were called *Anguſticlavii*. The third ſort belonged unto the populacy, or poorer ſort of *Romans*: it was made without any purfled works, being called *Tunica recta*. This Coat was given together with the *virile* Gown to ſtriplings paſt ſixteen years old, and to new married women. And as the *recta tunica* was given with the *virile* Gown; ſo was the *tunica clavatæ* given together with the *toga prætexta*; and the *laticlavia*, otherwiſe called *tunica palmata*, given with the *toga picta*. The fourth and laſt ſort belonged unto women, being a long Coat reaching down unto the heels: they called it *Stolam*. Upon it they did wear an outward garment *m* called *pallium*, and ſometimes *palla*, *quia palam geſtabatur*. *n* Sigonius ſaith, that this *palla* was a certain gown uſed by Stage-players: howſoever certain it is that

k Sig. de Jud. l.3.c.20.

l Salmuth in Pancir. lib. rerum deperdit. c. de ſib. 1

Vid. Turneb. adv. l. 1. c. 2.

m Roſin. ant. l.5.c.35.

n Sig. de Jud. l.3.c.19.

not only women, but men also and children did wear this kind of garment. Besides the *Roman* Gown and Coat, there remain other parts of their apparel to be spoken of: such are these which follow; *Lacerna*, which some do English a Cloak, but *o Festus* would have it to be a little kind of Hood, which men should wear to defend themselves from the rain and weather: it was made that either side might be worn outward: and at first it was worn only in war, so that *lacernati* stood in opposition with *togati*. *p Isidorus togatos pro urbanis, lacernatos pro militibus usurpatos scribit.* Afterward, as we may conjecture, it was made longer, in manner of a Cloak, for it was divers times worn upon their Coats in stead of Gowns. Another kind of garment was the *Penula*, so called *quasi pendula*, we may translate it a long hanging Cloak. A third was called *Mitra*, which sometimes did signifie a certain attire for womens heads, as a Coif, or such like; though this kind of attire was more properly called *Calantica*: other times it signified a Girdle, which more properly was called *Zona*: this *Zona* chiefly signified a Souldiers Belt, or a marriage Girdle. The Souldiers Belt was lined within in the inside, where when they went to war they did put their money, whence *Horace* saith of a man that hath lost his money, *Zonam perdidit*: and ζώσασθαι to be girt, signifieth ἐνδύναι τὰ ὅπλα, *Arma induere*, *Cœl. Rhod. l.* 22. 19. haply because that part of the body which was girt, was consecrated to *Mars*, as the Forehead was to every mans particular *genius*, the Arms to *Juno*, the Brest to *Neptune*, the Reins to *Venus*, the Feet to *Mercury*, and the Fingers to *Minerva*, *Alex. ab Alex. l.* 2. *c.* 19. Young maids when they were married were wont to have a marriage Girdle tied about their middle, which their husband at the first night of their marriage should untie: whence *Zonam solvere* hath been translated to deflour a Virgin. This marriage Girdle in former time was called *Cestus*, from whence cometh the Latine word *Incestus*, and the English word *Incest*: which in truth

o Sig. ibid.

p Sig. ibid.

truth ſignifieth all kind of pollution committed by undoing, or untying this Girdle, called *ceſtus*: But now in a more ſtrict acception it ſignifieth only that kind of naughtineſs which is committed between two near of kin; *q* and that other folly which is committed with a ſtrangers wife, is now properly called *adulterium*; and that which is committed with a maid or widow, *ſtuprum*. The laſt thing touching their apparel is their ſhoes, *r Calceamentorum genera duo fuerunt, calceus, & ſolea.* For the ſoal of the ſhoe, called in Latine *ſolea*, ſometimes *crepidula*, and in *Cicero* his time *gallica*, was tied on to the bottom of the foot with leathern ſtraps or buckles, and ſo worn inſtead of ſhoes. The divers kinds of theſe ſhoes did diſtinguiſh the Roman people alſo. To omit the difference in colours, we may reduce the chief kinds to five heads, *Mullei*, *Uncenati*, *Perones*, *Cothurni*, *Socci*, all theſe ſorts of ſhoes were made half way up the leg, as the Turkiſh ſhoes are, according to *Joſephus Scaliger*; and they were either laced cloſe to the leg, as many of our boots are now adays; or clapſed with taches, or haſps. The firſt ſort called *Mullei* *ſ* from the fiſh *Mullus*, being like unto it in colour, were alſo called from their claſp *t calcei lunati*, becauſe the claſps were made in form of a half Moon, which half-mooned claſp reſembling a Roman C, ſignified a hundred, *u* intimating thereby that the number of the Senators (they onely being permitted to wear this kind of ſhoe) were at firſt a full hundred and no more. Others are of opinion that they wore this mooned claſp, to put them in mind that the honour to which they had attained, was mutable and variable as the Moon. For they think that theſe *Lunati calcei* were not received as a token of Nobility onely at *Rome*, but in other places; to which purpoſe they interpret that of the Prophet *Eſai*, *cap.* 3. *In die illo auferet Dominus ornamentum calceorum & lunulas. Cæl. Rhod. lect. ant. l.* 20. *c.* 28. *Uncenati calcei*, were thoſe, which the Souldiers were wont to wear; I take them to be the ſame with thoſe

q Cœl. in orat. pro Milone.

r Roſin. ant. Rom. l. 5. c. 36

f Salmut. in Pancir. lib. rerum deperdit. cap. de Fibula.

t Appoſitam nigræ lunam ſubtexit alutæ Juv.

u Salmut. in Pancirol. l. 1. rerum deper. c. de Fibul.

those which they called *Caligæ*, from which kind of shoes *C. Cæsar Caligula* had his name, because he was born in the Army, *Quia natus in exercitu fuerat, cognomentum calceamenti militaris*, i. e. *Caligulæ, sortitus est. Aurel. Vict. de vita Imperat.* *Perones* (as we may conjecture) were laced up the leg: for *Tertullian* making but two sorts of shoes, saith, there were the *Mullei* called from their clasps *Lunati*, and the *Perones* made without such half-mooned clasps, called also *Calcei pueri, quoniam ex puro corio facti*; and these *Perones*, or *puros calceos* all the other Romans did wear, *x* with this note of distinction, that the Magistrates shoes were beset with precious stones, private mens were not. Thus much concerning both the kinds and fashion of the shoes may be collected out of *Rosinus* in the place above quoted. The description and use of the *Cothurnus* and *Soccus*, may be seen in the Tract *De Romanis ludis*.

x Salmuth. in Pancirol. lib. rerum deperdit. de calsibul.

LIB.

LIB. III. SECT. II.

Of the Roman *Magiſtrates.*

CAP. I.

De Magiſtratibus Romanis.

WE being to treat of the *Roman* Magiſtrates, will firſt ſee what the definition of a Magiſtrate is. A Magiſtrate is he [o] who receiveth by publique authority, the charge and overſight of humane affairs belonging to the Common wealth. Theſe *Roman* Magiſtrates were either to be choſen only out of the better ſort of *Romans*, called the *Patricii*, or elſe only out of the commonalty. [p] The firſt were thence called *Magiſtratus patricii*, the ſecond *Magiſtratus plebeii*. The *Patricii* had power to hinder the Aſſemblies of the people; namely, their *Comitia*, by obſerving ſigns and tokens from the heavens: howbeit ſome of them had greater power, others leſs; inſomuch that ſome were called *Majores Magiſtratus, quoniam habebant majora auſpicia, id eſt*, [q] *magis rata*. Others were called *minores magiſtratus, quoniam habebant minora auſpicia*. Of theſe in their order.

[o] Sig. de jure Rom. l. 1. c. 20.

[p] Sig. de jure Prov. l. 3. c. 1.

[q] Feneſt. de Magiſt. Rom. c. 1.

CAP. 2.

De Rege & Tribuno Celerum.

IN the infancy of *Rome*, it was governed by a King unto *Tarquinius Superbus* his time, who by maintaining that shameful act of his Son towards *Lucretia*, did so incense the people, that they did not only for the present exile him, but decreed that their City should never after that be governed by a King. This King had absolute rule and government over the City. For the safety of his person he had three hundred chosen young men always to be attendant about him, much like unto our Kings Majesties Guard here in *England*, or rather his *Pensioners*. They were called *r Celeres à celeritate*, from their readiness in assistance: sometimes they were called *Trossuli*, *s* because they alone without the help of any foot-men did take a certain City in *Etruria* called *Trossulum*. Other times they have been called *Flexumines*, whereof as yet there hath been no certain reason rendred. Each hundred of them had their several overseer called *Centurio*: and over them all there was one general overseer, and chief commander, whom they called *Præfectum vel Tribunum Celerum*, his place being next to the King. A second sort of attendants about the King were called *Lictores à ligando*, according to that, *Lictor colliga manus*. They were by the *Grecians* called ῥαβδοῦχοι, which we may render Virgers from ῥάβδος a Rod, and ἔχω, to have: though sometimes ῥαβδοῦχοι do signifie the same as ῥαψῳδοὶ, The Rehearsers of *Homers* verses, or in general of any other *Poets*: ἀπὸ τὸ ῥάψαι ᾠδὰς, from patching together other mens Poems. For the Reciters of *Homers* verses were wont to hold a Rod or Wand in their Hand during the time of Rehearsal. *Cœl. Rhod. l. c. 29.* They did somewhat resemble our Serjeants, there being in number twelve of them. Their office was to carry certain bundels of birchen-rods, with an axe wrapped up in the midst of them: the

r Plutarch. in Romulo.
s Plin. l. 33. c. 2.

the rods in *Latine* were called *Fasces*, the axe *Securis*. [t] The reason why they carried both axes and rods was to intimate the different punishment that belonged to notorious and petty malefactors. The reason why they were wrapped up together, was not only that they might thereby be more portable, but that the anger of the Magistrates might be somewhat allayed, whiles they were unbinding. Hence, because these *Fasces virgarum & securum*, did betoken honour and chiefdom in place and authority, by the figure *synecdoche*, this word hath been used to signifie honour and dignity, as *Fascibus suis abrogatis*, he being discharged of his magistracy or dignity. And *Fasces submittere* to give place, or yeild unto. *Valerius Publicola* gave occasion of the Proverb. He to insinuate himself into the hearts of the people, is said, *Submittere fasces populo quoties prodiret in concionem*. Some interpret it, as if he were wont to command the Serjeant quite to depart out of the Assembly with their rods, which opinion *Plutarch* in *Publicola* confuteth writing thus: αὐτὰς τε τὰς ῥάβδους εἰς ἐκκλησίαν παρῶν, ὑφῆκε τῷ δήμῳ κατέκλινε. *Fasces ipsos in concionem progressus populo submisit inclinavitque.* So that the phrase signifieth properly, the not holding up of the rods, or rather the laying them down as it were at the feet of the people. *Cæl. Rhodig. l. 12. c. 7.*

[t] Joac. Camerarius in orat. pro Flacco. Immedicabile vulnus Ense recidendum, &c.

CAP. 3.

De Senatu, & quis Princeps Senatus, & qui Senatores Pedarii?

TOuching the election of the *Senators*, the number of them, and the distinction of them into *Senatores majorum* and *Senatores minorum gentium*, sufficient hath been delivered in the second division of the *Roman* people, as likewise in the third division hath been shewn the habit or gown by which the *Senators* were distinguished from the *Roman* Gentlemen. Here therefore it shall be sufficient for us to understand, that every solemn meet-

ing, or consistory of these *Senators* was called *Senatus*. The foreman of them (which could be no other then such, as had been either *Consul* or *Censor*, was called *Princeps Senatus*, and his opinion was always first asked. Now among those that had born those foresaid offices, it was in the *Censors* power to make whom he would fore-men. The degree of this consistory was called *Senatus-consultum*. And many times it is written with these two letters only, S. C. In like manner their preface to these decrees was commonly these two capital letters B. F. That is *Bonum factum*. *Sueton. Jul. Cæs. cap.* 80. and it had the same use as, *In nomine Dei* with us. The place where this consistory was had they called *Senaculum*. None was *u* ordinarily admitted into the place of a *Senator*, before the five and twentieth year of his age: and of those that were admitted, some were allowed to ride unto the Senate-house in a Curule-chair, namely when they had born such office, which gave them right unto that chair: others which had not born such office went on foot: *x* whence these latter were called *Senatores pedarii*. They determined their acts which they called *Senatus-consulta*, sometimes by departing down their benches, and dividing themselves into sides; those which did approve that which was proposed, sided with the party who did *Referre ad senatum*, that is, propose the matter unto the Senate; the others departed unto the contrary side; or if they came not down at all, but sate still on the benches, then did they signifie by holding up, or beckning with their hands, what side they would take. Now if the major part were easie to be discerned, then they rested there, tearming that *y* to be decreed *per discessionem*: and hence these and the like phrases have taken their beginning, *In illius sententiam iturus sum*, and *Manibus pedibusque discedere in alicujus sententiam*, that is, to be fully perswaded of ones opinion. Now if both companies were almost equal, so that the major part could not easily be discerned, then did they proceed to give their voices, and that which was thus deter-

u Mart. Phileticus, in Cic. l. 1. ep. fam. 1.

x Mart. Phileticus ibid. It. A. Gel. noct Attic. l. 3. c. 18.

y Hubert. in Cic. lib. 1. ep. fam. 29.

determined was said to be decreed, *per singulorum sententias exquisitas*, that is, by voices. Here we may observe that to those, who were favourably heard in *Senate*, *His senatus dare dicebatur*; and *z* likewise they were said, *Stare in Senatu*: as on the contrary they were said *jacere*, whom the *Senate* neglected or rather condemned. *a Cum mihi stanti jacens minaretur*, saith *b Tully*. If any Senator were absent without a lawful excuse, then was he fined; and for the payment thereof, he did put in a pledge, which if he did not ransome, then did the common Treasures *Cadere vel concidere pignora*, that is, strain or seize upon the pledges, making common sale thereof, in which sense those two phrases are used, namely, *capere pignora*, *& auferre pignora*, that is, to strain or seize upon a mans goods.

z Ascensius in Cic. l. 1. epist. fam. 4.
a Cic. orat. de arusp. respon.
b Rosin. antiq. l. 7. c. 7.

CAP. 4.
De Consulibus.

AFter the expulsion of *Tarquinius Sup.* the last *Roman* King, all the Citizens in *Rome* Assembled, and concluded that the government of the City, which before was in the hand of one alone governour, called their King, should now be divided between two: *c* who at first (before there was any such subordinate office as a *Prætorship*) the *Romans* called *Prætores, quod præirent populo*. Not long after they were called *Judices, à judicando*. In processe of time they were known by no other name then *Consules à consulendo populo*. *d* No Citizen, was ordinarily created *Consul* before the forty third year of his age. Neither might any be chosen without special dispensation, either of their absence out of *Rome*, *e* or in time of their triumph; which was the reason that *Julius Cæsar* was glad to forgo his triumph at that time when he was *Consul* with *Bibulus*. The signs or tokens of this *Consular* dignity were the twelve *Lictors* carrying their bundles of rods and axes *f* the first month before one

c Rosin. ant. Rom. l. 7. c. 9.
d Cic. orat. Phil. 5.
e Suet. Jul. Cæs. cap. 18.
f Alex. Genealog. l. 3. c. 3.

Consul,

Consul, and the second before the other, as formerly they had done before the Kings. * Now he that had the rods carried before him in the first moneth, either he had more children than the other, for the *lex Julia* gave precedency to him who had most children, or he was elder than the other, or in time of the election he was pronounced before the other, for which respects he was called *Consul major*, and *Consul prior*. g The reason why each Consul had not twelve *Lictors* alwayes, was because the tyranny of the Consuls might then seem to be doubled, and to exceed the tyranny of the Kings. Another token was a certain Chair of Estate called *Sella eburnea*, that is, an Ivory chair, so called from the matter whereof it was made; and *b* because this chair was commonly carried about in a certain Coach or Chariot, wherein the Consul did ride, hence from *Currus* which signifieth a Coariot, it is also called *Sella Curulis*; where *i* note that the word *Curulis* is sometimes used substantively, and then it signifyeth some chief Magistracy or office among the Romans. The gown by which they were distinguished from other Magistrates or private men, was a certain purple gown, which from the great embroidered works was called *Trabea*, and he that did wear it, was thence called *Trabeatus*, according to that, *Trabeati cura Quirini*. It will be worth the observation to note, that the Romans did date their Deeds and Charters in old time, by naming the year wherein their City was first founded; as to say, *Ab urbe condita*, the twentieth, thirtieth, or fortieth year, *&c.* But in process of time their manner of dating was by subscribing the names of their present Consuls, as to say, such a thing was determined, *L. Valerio, M. Horatio Consulibus*, such and such being Consuls: whence *Suetonius* speaking of *Julius Cesar*, saith, he was appointed to be *Flamen Dialis, sequentibus Consulibus*, that is, the next year following. Yea, this was so common a date, that to know the age of their wines, they signed their vessels with the names of their Consuls, adding withal, that

* Coel. Rhod. l. 12. c. 7.

g Fenest. de Mag. Rom.

b A. Gel. l. 3. c. 18.

i Sradius in Flor. l. 1. c. 5.

that they might know the goodness of their wine, the name of the country whence it came, according to that of *Juven. Sat.* 5.

——Cujus pueriam, titulumq; senectus.

Delevit multa veteris fuligine testæ. Turn. adv. l. 1. *c.* 1.

Those alone who had born the office of a Consul, not every one that was capable thereof, were said to be *Viri consulares.* *k* At the first those who were created Consuls remained in their office the space of a whole year, being *designati ad consulatum* upon the twenty fourth of *Octob. Ad consulatum non ineunt ante Calendas Jan.* that is, the first of *January.* The reason of this chasme, or *interim* between their designation unto their office, and their entry into it, was (as we may probably conject) that the Competitors might have some time to enquire *de Ambitu*, that is, whether there was no indirect and unlawful means used in their canvasing. In process of time, either by voluntary resignation, or deposition, or death, many Consuls have been chosen in the same year, and they were called *m Non ordinarii, & suffecti Consules.* At such times all their deeds were dated by the names of the two first Consuls which began the year: whence those two first, and likewise all those that continued in their office the whole year, was called *n Consules Honorarii*, and *Consules Ordinarii.*

k Tistinus in orat. Cic. pro Cælio.

l P. Ramus in orat. Cat. 1.

m F. Sylv. in Cic. orat. pro Mur.

n Rosin. ant. Rom. l. 7. c. 9.

CAP. 5.
De Censoribus.

The Consuls finding themselves incumbred with so many businesses of a different nature, did by consent of the Senate choose two peculiar Officers, called *o Censores à censendo*, because they sessed and valued every mans estate, registring their names, and placing them in a fit century. For it did concern the Romans to know the number, and likewise the wealth of the people, to the end they might be informed of their own strength,

o Fenest. de Mag. Rom. c. 17.

and

and so shape their course accordingly, either in undertaking wars, transplanting Colonies, or in making provision of victuals in time of peace. A second and main part of their office was in reforming manners, to which end they had power to enquire into every mans life. This part of their authority was noted out unto us by this phrase, being called *Virgula Censoria*. If any one had played the ill husband, and neglected his Farm, or left his vine untrimmed, the Censors took notice thereof. They did *Senatu & Tribu movere*, i. e. they did depose Senators and pull down men from a more honourable Tribe, to a less honourable. *Diminutio maxima* was the loss of ones Tribe, City and Freedom. These Censors were reputed of the best rank of Magistrates in *Rome*; they remained in their office an whole five years space ordinarily; I say ordinarily, because *r* through the abuse of their place, the office had been made sometimes annual.

r Feneſt. de Rom. Mag. cap. 7.

ſ That five years space the Romans did call *Luſtrum*, because they did once in every five years revolution *Luſtrare exercitum Romanum*, by sacrifice purge the Roman Army. Hence we say *duo luſtra*, ten years, *tria luſtra*, 15 years, *&c.* The performance of this *Luſtration* belonged also unto the Censors: for after the Censors had performed the one part of their office, in registring the just valuation of every Citizens estate, *t* they did lead a Sow, a Ram, and a Bull three times about the Army, and in the end sacrificed them unto *Mars*: and thus to purge an Army, is, *condere luſtrum*; though sometimes *condere luſtrum* doth signifie, to muster an Army. These sacrifices, as likewise all others of the like nature, that is, wherein there was a Sow, a Ram, and a Bull sacrificed, were termed sometimes *u Suo-vetaurilia*, sometimes *Solitaurilia*, sometimes *x Taurilia*. Moreover it did belong unto these Censors to farm out the Tributes, Imposts, Tollage, *&c.* *y* At the five years end, the acts of both their Censors were registred upon books of record, which records were laid up in a certain religious house dedicated to

ſ Pomp. Læt. de Rom. Magiſt. cap. de Cenſor.

t Pancirol. l. rerum deper. c. de cibi capiendi modo.

u Alex. Gen. dier. l. 5. c. 27.

x Pomp. Læt. de mag. Rom. c. de Cenſor.

y Pancirol. lib. rerum deperdit. c. de cibi capiendi modo.

to the *Nymphs*. Whence *z Cicero* speaking of *Clodius*, saith, *Qui eadem Nympharum incendis, ut memoriam publicam incensis tabulis publicis impressam aboleret.*

z Cic. pro Milone.

CAP. 6.
De Prætoribus.

THe Consuls by reason of their many troubles in War, having no time to administer justice unto the Roman people, did for the better help therein, create two new officers for the executing of justice, the one to examine and judge of matters within the City between Citizen, and Citizen; The other to decide controversies between forreigners: The first they *a* called *Prætorem urbanum*, and *Prætorem majorem*; the other *Prætorem peregrinum*, *& Prætorem minorem*, we may English them Lord Chief Justice. Where we must note that at the first there was only the *Prætor urbanus*, until the cases and suits in law became so many, that one was not sufficient to hear them all, *b* yea at last the number of the *Prætors* came to 16. namely, when those two were added for the providing of corn and grain; whence they were called *Prætores Cereales*; *c* nay there were at last 18. *Prætors*, there being two others added to judge of controversies touching feoffments of trust, called the nce *Prætores fide; commissarii*. *d Causarum duo genera sunt, aliæ privatæ, aliæ publicæ; has criminosas, illas civiles appellant.* In those cases which were private, that is, *e* touching equity and uprightness of any act, or the restitution of any money or goods unlawfully detained from the right owner, it belonged principally unto the *f* two first *Prætors* to judge; *g* but under them unto the *Centum-viri*, who oftentimes are called by *Tully Recuperatores*, and *Judices hastæ*; the Court *Hasta centum-viralis*, because one of the marks and special ensigns was a spear erected up in the place the Court was kept. Those cases which were publick or criminal, as Treason, Murther, Buying of voices in the

a Pighius æquip. comp.

b Alex. Geu. dier. l. 2. c. 15.

c Feneſt. de Mag. Rom.

d F. Sylv. in orat. pro Mur.

e I. Saxon. in Cic. orat. pro S. Roſc.

f Roſin. ant. l. 7. c. 11.

g Saxonius ibid.

canvaſing of Offices, &c. were called alſo *cauſæ capitales* and *capitis dimicatio*, that is *b* ſuch caſes wherein if the party accuſed had been found guilty, he was *capite damnatus*: by which phraſe we muſt not underſtand always *Ultimum ſupplicium, ſed aliquando exilum, quo ſcilicet caput*, that is, *cives eximitur à civitate*. *i* Theſe caſes at the firſt were heard by the Kings and Conſuls; afterward by certain appointed thereunto by the people, being called from their inquiſition *quæſitores parricidii*. In continuance of time the examination and hearing of theſe publick caſes was turned over unto certain Magiſtrates, who becauſe they were to continue their office a full and entire year (whereas the others had their authority no longer then they ſat in judgement) were thence for diſtinction ſake called *Prætores Quæſitores*, and the caſes were termed *Quæſtiones perpetuæ*: *k* becauſe in theſe caſes there was one ſet form of giving judgement perpetually to remain; whereas in thoſe private or civill cauſes the *Prætor* did commonly every year change the form of giving judgement by hanging up new edicts. *l* Here we muſt note, that theſe *Quæſitores parricidarum*, otherwiſe called *Prætores Quæſitores*, had not the examination of all publick caſes, but ſometimes upon extraordinary occaſions either the Conſuls, the Senate, or the people themſelves would give judgement. Now as thoſe former *Prætors* had a ſpear erected up, whereby their Court for private cauſes was known; ſo had theſe *Quæſitores* a ſword hanged out in token of their Court. *m* *Prætorem inſignia duo fuere, haſta & gladius, illa ad juriſdictionem, hic ad quæſtionem ſignificandam*. The officers which did attend theſe *Prætors* were *Scribæ*, *i. e.* certain Notaries much reſembling the Cleiks of our aſſiſes, their office being to write according as the *Prætors* or chief Juſtices had bid them, taking their name *à ſcribendo*. The ſecond ſort were called *Accenſi ab accieudo*, from ſummoning, becauſe they were to ſummon men to their appearance. They much reſembled our Bayliffs errant. The third ſort were *Li-*

Lictores

b F. Sylv. in orat. pro Mur.

i Roſin. ant. l. 9. c. 11.

k Roſin. ant. l. 7. c. 18.

l Roſin. ant. l. 6. c. 18.

m Sig. de jud. l. 1. c. 7.

Populus; of which before. *n* The authority of the *Urbane Prætor* was so increased in time, yea his honour was such, that whatsoever he commanded it had the name of *Jus honorarium*. *o* Others are of opinion, that only the *Prætors* edict was that *p Jus honorarium*: the *Prætor Urbanus* being wont at the entrance into his office to collect a set form of administration of justice out of the former laws, and several edicts of former *Prætors*, according unto which he would administer Justice all the year following: and lest the people might be ignorant of the Contents thereof, he caused it to be hanged up to the publick view. This form of Justice was termed *Edictum, ab edicendo*, i. e. *q imperando*; because thereby he did command, or forbid something to be done. Whence *Pellitarius* in the place now quoted doth translate *Consulum edicta*, Mandatory lettes, that it might be distinguished from other Magistrates edicts. It was commonly called *Prætoris edictum*. And as *Pighius* observeth in the place above quoted, it was called *Edictum perpetuum*, not absolutely because the vertue thereof was perpetual, (for that expired together with the *Prætors* office, and therefore *r Tully* calleth it *legem annuam*) but in respect of other edicts made in the middle of the year upon extraordinary and unexpected occasions, which latter sort of edicts *s Tully* calleth *Peculiaria & nova edicta*. Afterward *t Salvius Julianus* collected an Edict out of all the old Edicts of the former *Prætors*, wherein almost all the whole Civil Law was contained, and this was called properly *Edictum perpetuum*, because that all the *Prætors* ever after did administer Justice according to that Edict, by the appointment of *Hadrianus* being then Emperour. The Edicts being given out, the administration of Justice consisted in the use of one of those three words *Do, Dico, & Addico*, i. e. *u Dat actionem, Dicit Jus, Addicit tam res quam homines*. That is, he is said *Dare*, when he granteth out an action or writ against a man; *Dicere*, when he passeth judgement on him; and *Addicere* when he in

n Fenest. de Rom. Mag. cap. 19.

o P. Pellit. in Cic. orat. pro A. Cœcinna.

p Pigh. Æq. per. com.

q P. Pellit. in Cic. orat. pro A Cœcinna.

r Cic. in Ver.

s Cic in Ver 5.

t Sig. de jud. l. 1. c. 6.

u I. Camer. Cic. orat. pro Flacco.

the Court doth see and allow the delivery of the thing, or the person on which judgement is passed. The form or Addiction was thus: After judgement had been pronounced in the Court, the party which prevailed, laid his hand on the thing or the person, against which sentence was pronounced, using this form of words, *Hunc ego hominem, sive hanc rem, ex jure Quiritium meam esse dico.* Then immediately did the L. chief justice *Addicere*, that is, approve the challenge, and grant a present possession. *Ant. in Fast. t.* 1. For explanation whereof we must know, that this word *Addico*, is sometimes *verbum Augurale*, sometimes *Forense*, sometimes a term of Art belonging unto the discipline of the *Augures*, and so the birds are said *Addicere*, when they shew some good and lucky token, that the matter consulted about is approved by the Gods: the opposite hereunto is *Abdicere*. Sometimes this verb *Addico* is a term of Law, signifying as *x* much as to deliver up into ones hands, or into ones possession: whence we do not only call those goods that are delivered by the *Prætor* unto the right owner *bona addicta*, but those debtors also which are delivered up by the *Prætor* unto their creditors to work out their debt, are termed *servi addicti*. Yea moreover, because in all port-sales it was necessary that the *Prætor* should *Addicere bona*, deliver up the goods sold, hence doth this word often signifie to sell, as *Addicere sanguinem alicujus*, to take money to kill a man, to sell a mans life. Touching the reason of their name, they were called *Prætores*, *à præeundo, quoniam jure præibant.* And *y* those alone were properly termed *viri Prætorii* which had born this office, not they which were capable thereof: In the same sense we say *Viri Censorii* and *Viri Ædilitii*, &c.

x M. Toxita in orat. pro Pub. Quint.

y Fr. Maturantius in Philip. 13.

CAP.

CAP. 7.

De Imperatoribus, Cæsaribus, sive Augustis.

When *C. Julius Cæsar* had overcome *Pompey* his Sons in *Spain*, at his return to *Rome*, the Senate welcomed him with new invented Titles of singular honour, styling him *Pater Patriæ*, *Consul in decennium*, *Dictator in perpetuum*, *Sacrosanctus*, and *Imperator*, all which titles were afterward conferred upon *Octavius Cæsar*; and all the Emperours succeeding him desired to be called *Imperatores & Cæsares* from him. Where we must understand, that this name *Imperator* was not altogether unknown before; for by that name the Roman Souldiers were wont (even at that time) to salute their Lord General after some special conquest. z These Roman Emperours were afterward called also *Augusti* from *Octavius Cæsar*, whom when the Senate studied to honour with some noble Title, some were of the mind that he should be called *Romulus*, because he was in a manner a second Founder of the City: but it was at length decreed by the advice of *Manutius Planeus*, that he should be styled by the name of *Augustus*, which we may English *Soveraign*: And they counted this name of more reverence and majesty than that former name of *Romulus*, because all consecrated and hallowed places were called *Loca Augusta*. The authority of these Emperours was very great, even as great as the Kings in former times.

z Ser. Æn. l. 6.

CAP. 8.

De principibus juventutis, Cæsaribus; & nobilissimis Cæsaribus.

A Custome *a* was received among the Roman Emperours in their life time to nominate him whom they would have to succeed them in their Empire; and him they called *Princeps juventutis*, *Cæsar* & *Nobilissimus Cæsar*.

a Rosin. ant. l. 7. c. 3.

Cæsar. The like custome was practised by *Charles* the fifth Emperour of *Germany*, and so hath been continued by his Successors; namely, that one should be chosen whom they called *Rex Romanorum*, who should be so far invested in the Title to the Empire by the means of the present Emperour, that upon the death, resignation, or deposition of the then being Emperour, he immediately should succeed.

CAP. 9.
De Præfecto Urbis.

Romulus for the better Goverament of the City appointed a certain Officer called *Urbis Præfectus*, to have the hearing of all matters or causes between the Master and the Servant, between Orphans and their Overseers, between the Buyer and the Seller, *&c.* Afterward in time of the Roman Emperours, this *Urbis Præfectus* did assume unto himself such authority, that he would examine and have the hearing of all Causes of what nature soever, if they were *Intra centissimum lapidem*, within an hundred miles of *Rome*: (for *b Lapis* in old time signified a mile, because at every miles end a great stone in manner of a mark-stone was erected.) In the absence of the King or Consuls, he had all authority which belonged unto them resigned unto him. I am not ignorant, that some do make this latter kind of Prefecture, Lieutenantship, a different office from the former: but I should rather think it to be one and the same, only his authority to be more enlarged in the Kings absence: and of this opinion do I find *Fenestella*, *Alexand. Neopl.* and *c Sigonius*.

b De spauterius in sua syntaxi.

c Sig. de jur. Rom. l. c. 20.

A CAP.

CAP. 10.
De Decem-viris, legibus scribendis.

For the better administration of Justice, the *d* Romans appointed three men, namely, *e Sp. Posthumius*, *Ser. Sulpitius*, *A. Manlius*, to go to *Athens*, and other Grecian Cities, there to peruse the Grecian Laws; to the intent that at their return, both a supply might be made of those Laws that were wanting in *Rome*, and the other that were faulty might thereby be rectified and amended. At the return of those three men, the Consuls were deposed, and both their Authority and Ensigns given unto *f* ten men newly erected for the Government of the State, and were thence called *Decemviri*. The first elected into this *Decem-virat*, were *Ap. Claudius*, *T. Genutius*, *P. Sextus*, *Sp. Veturius*, *C. Julius*, *A. Manlius*, *Ser. Sulpitius*, *P. Curiatius*, *T. Romul. Sp. Posthumius*: all of them such as had born the office of a Consul. The Laws which they brought from *Athens* were written at first in ten Tables of Brass: afterwards two other Tables were added, at which times those Laws began to be known and distinguished from others by the name of *Leges 12. Tabularum*. And according to those Laws Justice ever after was administred to the Roman people, at first by these ten men appointed thereunto, whose authority was as large even as the Kings and Consuls in old time, only it was annual. One of them only had the Ensigns of honour carried before him, one alone had the authority of convocating the Senate confirming their Decrees, and the discharge of all State businesses; *g* the other did little differ from private men in their habit, only when the first had ruled a set time, the others succeeded by turns. This kind of Government did not continue long in *Rome*; for in the third year all their power was abrogated, because of their Tyranny and Oppression used by them towards the Roman people.

d Fenest. de Mag. Rom. c. 14.

e Rosin. ant. lib. 7. cap. 9.

f Lip. Reg. Leg.

g Rosin. ant. Rom. l. 7. c. 19.

CAP.

CAP. 11.

De Interregia poteſtate.

f Dion. Halic. lib. 2.

AFter the death of *Romulus*, *f* The Senators divided themſelves into ſeveral Companies, called *Decuriæ*, committing the Government of the Kingdom to that *Decury*, that is, to thoſe ten men, upon whom the lot fell, calling them the *Interreges*. Where we muſt know, that theſe ten did not rule all together, but each man ruled for the ſpace of five dayes, whence *g Roſinus* calleth this Magiſtracy, *Magiſtratum Quinquedauum*. After that five dayes Government had paſſed through the firſt, then did they go to lots to have a ſecond *Decury* choſen, and ſo a third, *&c.* This office of an *Interrex* remained even in the Conſuls time, ſo that if by ſome extraordinary occaſion the Conſuls could not be created, *h* then they choſe one, to whom alone they committed the whole Government of the Kingdom, and him they called *Interregem*.

g Roſin ant. l. 6. c. 16.

h Alex. Gen. dier. l. 5. c. 6.

CAP. 12.

De Dictatore.

WHenſoever the Romans found themſelves encumbred with dangerous Wars, or any other eminent dangers, they preſently choſe a *Dictator* to whom alone was commited the Authority and rule of the whole Kingdom, differing from a King only in reſpect of his name and the continuance of his Office. Touching his name, he was ſo called, *quoniam dictis ejus parebat populus*. His Office continued but ſix months, and at the expiration thereof, if need required, he was choſen again for another ſix months. He was alſo called *i Populi Magiſter*, in aſmuch as none could make their appeal from him unto the people. Aſſoon as himſelf was eſtabliſhed in his office, he choſe a ſubordinate Officer,

i Pyghius in Tyran.

ficer whom he *k Equitum Magister*: his authority much resembled his, whom they called *Urbi Præfectum*: for as the *Præfectus urbi* in the absence of the King, so this *Magister equitum* in absence of the *Dictator* had full and uncontroleable authority of doing what he would. *k* Sadius in Fl. or. l. 1. c. 11.

CAP. 13.

De Tribunis militum.

THese *l* military *Tribunes* were of two sorts. The one had all power and authority, which belonged unto the *Consuls*; and thence were called *Tribuni militum consulari potestate*. The occasion of them was this: The protectors of the commons called *Tribuni plebis*, did earnestly labour that the commonalty might be made as capable of the consular dignity as the Nobility: This was followed so hot, that in the end, though the Nobility would not grant them way unto that dignity under the name of *Consuls*; yet in effect they would grant it them. Namely the *Consuls* should be deposed, and in their stead other magistrates should be chosen; part out of the Nobility, part out of the commonalty, who though they were not called *Consuls*, but *Tribuni*, yet were they of *Consular* authority: by which they were distinguished from the other sort of Military *Tribunes*, who had power and authority only in matters military, and were known by the name of *Tribuni militum*, without any addition. *n* Sometimes there was one of these three words prefixed, *Rutuli* or *Rufuli*, *Suffecti* and *comitiati*; not thereby to intimate unto us any distinction of office or place, but to signifie their manner of election. For if they were chosen by the *Consules*, then were they called *Tribuni Rutuli*, or *Rufuli*, because they had their authority confirmed unto them by vertue of an Act or Law preferred by *Rutilius Rufus*, when he was *Consul*. If they were chosen by the Souldiers themselves in their Campe, then were they called *Tribuni suffecti*, that is, *Tribunes* substituted or put

l Rosin. ant. l. 7. c. 20.

n Alex. Gen. dier. l. 6. c. 18.

in the place of another. Whence we may conject, that the Souldiers were not permitted to make any election, but in time of need, when their former *Tribunes* were taken from them by ſome violent or unnatural death. The laſt ſort called *Comitiati*, were ſo called becauſe they were choſen by the *Roman* Aſſemblies called in Latine *Comitia*. They were termed *Tribuni*, becauſe at the firſt inſtitution of them (whether we underſtand the Conſular *Tribunes*, or this latter ſort) there were but three of each. In proceſs of time notwithſtanding I find the number not only of thoſe *Conſular Tribunes*, *o* but of thoſe other alſo to have been encreaſed to ſix, accordingly as the thouſands in a legion were multiplied. Theſe latter ſort of *Tribunes*, in reſpect of their Military Diſcipline, which was to ſee the Souldiers being faulty to be puniſhed, we may Engliſh *Knights Martial*: In reſpect that their authority was over foot-men only we may Engliſh them *Serjeants Major*: only this difference there was, to every thouſand of foot-men in any legion, there were as many Military *Tribunes* under their chief Commander called *Imperator*. But in our Engliſh Armies there is but one *Serjeant Major*, who alone under the Lord General hath Command over all the Foot-men, be there never ſo many thouſands.

o Roſin. ant. l. 7. c. 20.

CAP. 14.

De Triumviris Reipub. conſtituendo.

THis tyranny of the *Triumviratus* began by a conſpiration between *Auguſtus Cæſar*, *Antonius*, and *Lepidus*. For theſe three under the pretence of revenging *Julius Cæſar* his death, obtained chief power and authority for the ſpace of five years throughout *Rome*, *p* pretending that they would ſettle the Commonweal-h, which at that time by reaſon of *Jul. Cæſars* death was much out of order. Thoſe five years being expired, they refuſed to reſign their authority, exerciſing exceſſive cruelty towards all

p Feneſt. de mag. Rom. cap. 21.

all the *Romans* of what degree soever. *q* This kind of government remained but ten years, neither ever were there any other than those three above named. They had power to enact any New Law, to reverse any former Act, without the consent of the *Senate*, or *Commons*. They might proscribe and banish any *Roman* at their pleasure, and as often as we read *de Trium viratu* simply without any adjunction, or *de Triumviratu Senatus legendi*, we are to understand it of this, though some upon unsure grounds do dis-joyn them.

q Suet. Octa. Aug. c. 27.

CAP. 15.

De Quæstoribus Ærarii.

THis office of the *Quæstors* seemeth not unlike to a publique Treasurers, which collecteth the subsidies, customs, money, yearly revenues, and all other payments belonging to any State or Corporation. And hence *r quoniam publicæ pecuniæ quærendæ præpositi erant*, they took their name *Quæstores*. Sometimes they are called *Quæstors Urbani*, to distinguish them from the Provincial *Quæstors*, which bare office in the Roman Provinces: sometimes they are called *Quæstores ærarii*, to distinguish them from those that were called *Quæstores parricidii*, or *rerum capitalium*, of which you may see more in the tract *de Prætoribus*. *s* Lastly, they were called *Quæstores ærarii*, to distinguish them from the *Tribuni ærarii*, i. e. those Martial Treasures, or Clerkes of the Band which did receive the Souldiers pay from these City-treasurers, and so pay it to the Souldiers. The office of those City-treasurers (then being at first but two) was to receive all the City-accounts; to disburse at all occasions of publique expenses; to take an oath of him that the Souldiers had saluted by the name of *Imperator*, that he had truly informed the *Senate* both of the number of enemies slain, as also of the number of Citi-

r Fenest de Mag. Rom. c. 3

s Sig. de jure Rom. l. 2. c. 8.

zens loſt; otherwiſe he might barr the Emperour of his triumph. Moreover whatſoever ſpoils were taken in the War, they were delivered up unto theſe *City-quæſtors*, and they ſelling them, laid up the money in the great Treaſure-houſe called *Ædes Saturni*.

CAP. 16.
De Tribunis Plebis.

THe *t Roman* commonalty finding themſelves oppreſſed by the wealthier ſort, departed unto the *Aventine* mount, threatning the *Roman* Nobility, that they would forſake their City, and never again adventure themſelves in War for the defence thereof, unleſs they did find ſome releaſe and eaſement, from thoſe exceſſive payments of uſe and intereſt unto their Creditours: yea, beſides the remiſſion of their preſent debts, before they would return unto their City again, they would have certain Magiſtrates choſen, which ſhould be *u Sacro-ſancti*, that is, ſuch as might not be hurt or violently uſed, not ſo much as in words: and if any had violated that law, whereby they were made *Sacro-ſancti*, then was he accounted *homo ſacer*, that is, an excommunicate perſon, or ſuch an one whoſe ſoul ſhould be vowed unto ſome God; inſomuch that if any after had killed him, he ſhould not be liable unto judgement: *x quoniam illius anima diis devota amplius humani commercii non ſit.* To thoſe *y* Magiſtrates the protection of the Commons was committed, who becauld they were at ffrſt choſen out of the *Military Tribunes*, therefore did they always retain the name of *Tribunes*, being called, that they might be diſtinguiſhed from the others, *Tribuni plebis*, Protectours of the Commons. At the firſt inſtitution of them they were in number but two, as *z* ſome have thought: *a* Others ſay five, afterward (as it is yeilded by all Writers) they increaſed unto ten. Their authority at firſt conſiſted chiefly in this, that they had power to hinder any proceedings

t Roſin. Epit. rerum, Rom.

u Roſin. ant. l. 7. c. 25.

x Alex. Gendier. l. 6. c. 14.

y Roſin ant. l. 7. c. 23.

z Pighius in ſuo Tirannitug.

a Pomp. Læt.

ceedings in the *Senate*, which they thought might prove prejudicial unto the Commons, so that they had not authority to enact any new Decrees, as afterward by abusing their authority they did. *b Sed eorum auctoritas magis in intercedendo, quàm jubendo.* And hence was it that in old time these Protectours of the Commons were not permitted to come into the *Senate*, but *c* they sate without at the door, whither whatsoever was determined within the *Senate* was sent unto them, to be perused by them, and if they did approve it, then did they subscribe a great *Roman* T, being the first letter of this word *Tribuni*. *d* The houses of these *Tribunes* stood open night and day, as a common refuge or place of succour for all that would come; *e* neither was it lawful for them to be absent out of the Town one whole day throughout the year.

b Stadius in Flor. l. 3. c. 2.

c Pigh. in suo Tirannisug.

d Rosin ant. Rom. l. 7. c. 23.

e Pigh. in suo Tyrannisug.

CAP. 17.

De Ædilibus, & Præfecto annonæ.

WE may read of three sorts of *Roman* Magistrates called *Ædiles*, the two first had their names *ab ædibus curandis*, having in their charge to repair both temples and private dwelling-houses which belonged unto the City. The first sort were called *Ædiles curules, à sella curuli*, from the Chair of State, wherein it was permitted them to ride, and these were chosen *f* out of the *Senators*. The second sort were called *Ædiles Plebii*, and they were added unto the former, at the earnest suit of the Commons, they being to be chosen out of them. Where we must note that they were not so added, that both sorts should rule at one and the self same time, *g* but that the *Curules* should rule the one year, and the *Plebeii* the other. To these *Ædiles* it did belong, beside the reparation of temples and private houses, to look unto the weights and measures in common sale: for they had power to examine *Actiones redhibitorias*, that

f Philet. in l. 2. Cic. epist. fam. 10.

g Alex. Genial. l. 4. c. 4.

that is, such actions, by vertue of which he that had sold any corrupt or sophisticated wares, was constrained to take them again. Moreover they had the charge of the publick conduit or water conveyances, of provision for solemn playes, *&c.* Of the third sort there were also two, who were in a manner Clerks of the Market: *h* for unto them belonged the looking unto the victuals sold in the Market, and corn: Whence they were called by them *Ædiles Cereales*, and *i* by the Greeks ἀρτοφυλάκων. This office, for ought that can be collected out of those that treat of it, differeth but little from his, whom the Romans called *Annonæ præfectum*; only this, the *Ædiles Cereales* were *Magistratus ordinarii*; the *Prefectus, extraordinarius*, namely, *k* such as was chosen only in time of extraordinary dearths: he having for that time larger authority then those ordinary Clerks of the Market. For as it appeareth by *Rosinus* in the place now quoted, this *Prefectus* had power of himself to examine all such cases or questions as should arise touching the dearth: as suppose the hoarding of corn, fore-stalling the Market, *&c.*

h Alex. Gen. ibid.

i Pighius in suo Tyran.

k Rosin. ant. lib. 7. c. 38.

CAP. 18.
De Triumviris.

BEside that *Trium viratus Reip. constituende*, of which we spake before, there were divers kinds of *Triumviratus*, namely, *Triumviri capitales*, three high Sheriffs, who had the charge of Prisons, and were to see malefactors punished. For which purpose eight *Lictors* did attend them. There was also *l Triumviri Minarii*, three men, we may term them Bankers, who had authority to pay out of the common Treasury poor mens debts. Sometimes there were appointed five to this office, whence they were also called *m Quinq; viri Mensarii*, both being called *Mensarii* from *Mensa*, a Table whereon they told their money. Another sort of *Triumviri* there were appointed to press Souldiers, whence they were

l Alex. Gen. dier. l. 3. c. 16.

m Camer. in orat. Cic. pro Flacco.

were called *Triumviri conquirendi juvenes idoneos ad arma ferenda.* We read also of certain *Triumviri*, which were elected as chief Captains to guide and conduct the people in transplanting Colonies, and thence were they named *Triumviri coloniæ deducendæ*; but sometimes for this purpose they elected seven, ten, or twenty, and so named them *Quinq; viri, Septem viri, Decem viri,* & *Viginti viri Coloniæ deducendæ.* Three other sorts of *Triumviri* remain, which were officers of small account, as the *Triumviri monetales*, three Masters of the Mint, who thence were called *Triumviri A. A. Æ. F. F.* that is, *Auro, Argento, Ære, Flando, Feriundo*, for they had the charge of coining the money. 2. *Triumviri valetudinis*, three Pest-men, which were to oversee those that lay infected with any contagious sickness. Thirdly, *n Triumviri nocturni*, three Bell-men, which were to walk the Town at night, and to give notice of fire.

n Alex. Gen. dier. l. 3. c. 1.

CAP. 19.
De Præfectis Ærarii.

Augustus Cæsar desiring for the better safety of the City to maintain many bands of Souldiers, which should always be in readiness for the defence of the City, desired of the City a yearly subsidy for the maintenance of those Souldiers: but being denyed it, he built a certain Treasure-house which he called *Ærarium militare*, whereinto he cast his money for himself and *Tiberius*; and promised to do so every year. Afterward when he saw the Treasury not to be inriched enough, either by that money which himself bestowed, or by the contributions of others, he appointed that the twentieth part of all inheritances and legacies (except it were to the next of the kin, or to the poor) should fall unto this Treasury. For the charge and custody hereof he appointed three of those Souldiers which always attended about him for the safeguard of his person, calling them *Prefectos Ærarii.*

CAP.

CAP. 20.
De Prefecto Pretorio.

ALL Captains and Governours to whom the Rule of any Army belonged, were in ancient time called *o Pretores:* This word *Pretor* signifying then three chief Officers among the Romans; first a Consul, secondly a L. chief Justice, thirdly a L. General in war; all of them being called *p Pretores, quasi Prestores, quoniam jure & exercitu præbant.* Answerable to which threefold acception, this word *Pretorium* hath three several significations; sometimes it signifieth a Princes palace or Manor-house, sometimes a great hall or place where judgement was wont to be given, and lastly, the L. General his pavilion in the Camp; *q* from which last signification it is, that those Souldiers that gave attendance about that pavilion for the guard of their Captains person, are sometimes called *Milites Pretoriani*, sometimes *Cohors Pretoria.* *r* And he to whom the oversight of the Souldiers was committed, was thence called *Pretorio prefectus.*

o Pancir. in notitiam imper. orient. c. 5

p Pighius in Æquiper. compos.

q Asconius in Verrin.

r Fr. Sylv. in Catil. 2.

CAP. 21.
De Advocato fisci.

FOr the right understanding of this office, we must first note a difference between these two words, *Ærarium* and *Fiscus*: *Ærarium* was a common Treasury belonging unto an whole State or Corporation, whence all publick and common expences are to be supplied. *Fiscus* was the Kings or Emperours private coffers: it may be Englished the *Kings Exchequer:* The keeper thereof was called *Advocatus Fisci.* There are many other petty offices within the City, which I have purposely omitted, because there is but seldom mention of them in old Authors, and as often as they are mentioned, their names do explain their office.

CAP.

CAP. 22.

De præcipuis Magistratibus provincialibus.

OVer the Provinces at first ruled certain Magistrates sent from *Rome*, by Commission from the Roman Senate, called *Prætores*, whose office was to administer Justice unto the Provincial inhabitants, yea, and if occasion served, to make war also upon their enemy; and this was the reason that the number of the Prætors did so increase always, namely, according as the number of Provinces did encrease. The wars and tumults in the Provinces sometimes were so great, that the Prætor was not sufficient both to manage war and execute justice: whereupon the Senate thought fit to send another Magistrate into the Provinces, whom they called a Consul, because properly the managing of war belonged unto the Consul, so that there were at first two ordinary Provincial Magistrates, a Consul to manage war, and a Prætor or Lord Chief Justice to sit in Judgement. And if these two by a second grant from the Senate, did continue in their office above the space of a year, then were they called *Proconsules & Proprætores*. But in process of time this custom was altered; for then none could be Proconsuls, but those alone who had been Consuls in *Rome*: neither could any be Proprætors, which had not been Prætors at *Rome*. Their manner being, that the next year after the expiration of their offices in *Rome*, they should depart into some certain Province, to bear the same offices again, being not called *Consules* or *Prætores* as before, but ſ *Proconsules* and *Proprætores*: and for this cause alwayes so soon as the Consuls had been created, the Senate did appoint certain Provinces for the Consuls, which being appointed, the Consuls did either agree between themselves, who should go to the one, who to the other, and that was termed *comparare provincias*; or else they did decide the question by lots, and that was termed *sortiri provincias*:

ſ Alex. Gen. dier. l. 3. c. 3.

cias: howbeit, ſometimes the Senate did interpoſe their authority, and diſpoſe the ſame. Under the Emperours the Governours of ſome Provinces were appointed by the Senate and the people, and thoſe were called *Proconſules*, and the Provinces, *t Provinciæ Conſulares*: others were appointed by the Emperours, and they were called *Proprætores*, and the Provinces *Prætoriæ Provinciæ*. For all this which hath been noted touching the Provincial Magiſtrates, it is almoſt *verbatim* tranſlated out of *u Roſinus*. To which we add this, namely, that every Proconſul and Proprætor did uſually chooſe a Lieutenant, ſuch a one as ſhould be aſſiſtant unto him in matters of Government, whom they called *Legatum*, ſo that this word *x Legatus* ſignifieth three ſeveral Magiſtrates among the Romans: two whereof may be proved out of *y Sigonius*: firſt, that it ſignified ſuch a Lieutenant, or Lord Deputy under a Proconſul, or Proprætor in a Province. 2. That it ſignified ſuch a one as is imployed in the delivery of a Meſſage or Embaſſage from one Prince or State to another: we commonly call them Embaſſadours. Laſtly, it ſignified a Lieutenant or chief Captain in war, whoſe place was next under the Lord General. His Office at the firſt inſtitution, was not ſo much to rule or command, as to aſſiſt the Lord General in counſel; whence *Polybius* commonly joyneth theſe two together πρεσβευτὰς καὶ συμβούλους, that is, *Legatos & conſiliarios*, that the latter word might expound the former. *Lipſ. de mil. Rom. l. 2. dial. 11.* Moreover, every Proconſul and Proprætor had with them certain Treaſurers called *Quæſtores Provinciales*: Theſe Provincial Treaſurers *a* were choſen by the Roman people commonly, namely, ſuch a number as the number of Provinces did require. After the election, they between themſelves did caſt lots who ſhould go unto the one, who unto the other Provinces: *b* ſometimes extraordinarily by vertue of ſpecial act or Decree, as this or that ſpecial man hath obtained this or that Province without any lottery. By the way we muſt note,

s Camer. pro L. Flacco.

u Roſin. ant. l. 10. c. 24.

x Pomp. Læt. de Mag. Rom.

y Sig. de jur. prov. l. 2. c. 2.

a Sig. de jur. prov. l. 2. c. 3.

b Sig. ibid.

note, that all Provincial Quæſtors could not be called Proqueſtors, as all Provincial Conſuls and Prætors were called *Proconſules* and *Proprætores*: [c] For theſe only were called *Proquæſtores*, which did ſucceed theſe Provincial *Quæſtors*, when they did either die in their office, or depart out of the Province, no ſucceſſour being expected from *Rome*, at which time it was lawful for the Proconſul or Propætor to chooſe his Proquæſtor. Moreover, there were beſide theſe *Legati & quæſtores*, [d] other Military Officers, ſuch as are the *Tribuni militum*, *Centuriones*, *Præfecti*, *Decuriones*, together with other inferiour Officers, as their Secretaries, Bailiffs, Criers, Serjeants, and ſuch like.

[c] Roſin. ant. Rom. l. 7. c. 45

[d] Sig. de Jur. prov. l. 2 c. 2.

LIB. III. SECT. III.

Of the Roman *Punishments.*

CAP. I.

Supplicia, Mulcta, Lex, Ateria, Tarpeia, Ego ei unum ovem mulctam dico, &c.

TOuching the Military Punishments, which belonged to the Military Discipline; it shall be treated of in its proper place. Here only of the City Discipline, and the usual Punishments exercised therein, which we may divide thus. Punishments publickly inflicted on malefactors, are either *pecuniary mulcts*, or *corporal punishments:* The *Pecuniary mulcts* were of two sorts; either an appointed sum of money was required of the party guilty, and then it was called *Mulcta*; or his whole estate was seised on, and then it was termed a *Confiscation* of his goods. The *Mulct* was twofold, the one termed *Mulcta suprema*, the other *Mulcta minima*. Of both these *a Gellius* writeth thus, *Suprema mulcta erat duarum ovium, & treginta bovum, pro copia scilicet boum, & penuria ovium; sed cum ejusmodi mulcta pecoris armentique à magistratibus dicta erat, adigebantur boves, oves que, alias pretii parvi, alias majoris, eaq; res faciebat inæqualem mulctæ punitionem:*

a Gell. l. 11.

punitionem: idcirco postea lege Ateria constituti sunt in oves singulis æris deni, in boves æris centeni: Minima vero mulcta fuit ovis unius. Moreover as he observeth in the same place, whensoever the Magistrate did set a fine or mulct upon the offenders head, he used the word *Ovis* in the Masculine gender, as *Ego ei unum ovem mulctam dico, &c.* The Law which *Gellius* calleth *Ateriam legem*, *b Festus* calleth *legem Tarpeiam*, because *Aterius* enacted it when he was Collegue or fellow-Consul with *Tarpeius*. Likewise we may take notice of the clemency used in those times. It was provided by the law, that seeing there was a greater plenty of Oxen then of Sheep, and to be fined an Ox, was not so much as to be fined a Sheep, therefore the Magistrate pronouncing the fine, *c Bovem prius quam Ovem nominaret, ut innotesceret Romanis mitiores semper pœnas placuisse.*

b Festus in voce peculat.

c P. in lib. 18. c. 3. It. Alex ab Alex. l. 3. c. 5.

CAP. 2.

Capitis diminutio, maxima, media, minima, Aqua & Igni, interdici, Proscriptio, Lata fuga, Deportatio, προγράφειν, σηλιτεύειν. Ærarii, In ærarios relati, Religatio, Lanii cum tintinnabulis.

THe corporal punishments are either such as were *Capital*, depriving a man of his life: or *Castigatory*, such corrections as served for the humbling and reforming of the offender, or for the destroying of him. *Capital* punishments were sometimes taken in a Civil acception, for the loss of freedom, which the *Romans* called *capitis diminutionem*, Disfranchising, because in every Freeman thus disfranchised, one head of the Corporation was as it were cut off: sometimes it is taken for the loss of ones life, and this they called *Ultimum supplicium*. That disfranchising called *capitis diminutio*, was *d* threefold. *Maxima, Media, & Minima.* The least degree was, when the *Censors* pulled a man from an higher Tribe, down to a lower and less honourable,

d Rosin. ant. l. 9. c. 3.

honourable, or when by any cenſure they diſabled a man from ſuffraging, or giving his voice in the publick Aſſemblies: ſuch as were thus in the laſt manner puniſhed, were termed *Ærarii*, and *In ærarios relati*, e *quia omnia alia jura civium Romanorum præterquam tributi & æris conferendi amiſerunt.* This kind of puniſhment, as i may ſeem, was many times exerciſed for irreverend geſture, or ſpeeches uſed by ſuch as were queſtioned by the Cenſors. Three ſeveral examples are noted by *f Gellius*; the laſt is this, *P. Scipio Naſcica* and *M. Pompilius* being Cenſors, taking a view of the Roman Knights, obſerved one of them to have a lean ſtarveling horſe, himſelf being fat, and in good plight; whereupon they demanded the reaſon why his horſe was ſo lean, himſelf being ſo fat: his anſwer was, *Quoniam ego, inquit, me curo; equum Statius meus ſervus. Diminutio media*, was an exiſement out of the City, without the loſs of ones freedom: *g* It was commonly ſet down in this form of words, *Tibi aquæ & igni interdico.* And it ſeemeth by *h Cœlius Rhodiginus*, to be all one with that kind of baniſhment which the Romans called *proſcriptio*, though it cannot be denied but that *Proſcriptus* ſometimes ſignifieth only ſuch a one whoſe goods are ſet at ſale to ſatisfie his creditors, becauſe he will not appear in the Court; the form thereof is thus; The Creditors having obtained leave of the Lord Chief Juſtice to proceed in this manner, they committed the ordering of the ſale to one principal Creditor, and he was called ſimply *Magiſter*, and he in the name of all the reſt ſolemnly proclaimed in the chief places of the City in form as followeth, *i Ille debitor noſter in ejuſmodi cauſa eſt, ut bona ejus dividi debeant; nos creditores patrimonium ejus diſtrahimus; quicunque emere volet, adeſto.* But for the reconciling of both opinions, we may term the firſt to be *Proſcriptionem hominum*, the other *Proſcriptionem bonorum*, which diſtinction being not obſerved, breedeth a great confuſion in the Authors that treat of this puniſhment: and becauſe both were performed by ſolemn and publick

e Sig. de Jur. Rom. l. 1. c. 17

f A. Gell. noct. Attic. l. 4. c. 7.

g Camerar. in orat. Cic. pro Mur.

h Cœl. Rhod. l. 15. c. 17.

i Roſin. ant. l. 9. c. 12.

publick Proclamations; hence the name *Proſcriptio* agreed as well to the goods confiſcated, as to the perſons baniſhed; according to that, *k Quoniam eorum nomina in publico ſcribebantur, hinc proſcribi dicebantur.* Hence the *l Grecians* uſed not only the word προγράφειν but alſo σανίδευειν, to ſignifie the act of *proſcription*, becauſe they wrote in a publick pillar the faults and offences of ſuch as were thus baniſhed. But to proceed without farther digreſſion, *Diminutio maxima* was the loſs both of the City, and the freedom; and this I take to be the ſame which in other terms was called *Lata fuga*, or *deportatio*, namely a perpetual exilement: All ſtanding in oppoſition to that other kind of baniſhment, called *Relegatio*, which was the exilement * onely for a ſeaſon, happily for five years, *&c.* ſee *C. Rhod. lib.* 10. *cap.* 5. Though I deny not but that *lata fuga* was ſo called, not only in reſpect of the duration of time, it being a perpetual baniſhment, but alſo in regard of the places ſo generally prohibited; *m* for he that was thus baniſhed, was tyed and limited to one peculiar countrey, all other places in general being forbidden him. Thoſe puniſhments that deprived of life in ordinary uſe, and of which there is moſt frequent mention in *Roman* Authors, are theſe which follow: *Furca, Crux, Carcer, Culeus, Equuleus, de rupe Tarpeia dejectio, Scala, Gemoniæ, Tunica, Damnatio, in gladium, in ludum, ad beſtias.* In general we are to note, that the execution was without the gates of the City, to prevent the noyſomneſs which ſuch abundance of bloud might occaſion, *n* for which reaſon the Executioner dwelt without the City. Likewiſe thoſe that were adjudged to death, when they went to the place of Execution, a certain little Bell was tied about them, that by the ſound thereof, the people might beware of touching the condemned perſon, becauſe the very touch of him was counted a kind of pollution: this *o Turnebus* obſerveth out of *Zonaras*, and from thence the Executioners are called *p Lanii cum tintinnabulis.* And for this reaſon

k F. Matur. in Philip. orat. 5

l Suidas. in voce σάνιδα.

* Adde quod edictum quamvis immite minaxq; *Attamen in pœnæ nomine lene fuit; Quippe relegatus, non exul dicor in illo. Ovid.* de Triſt. l. 2. & Eleg. 1.

m Tholoſan. ſyntag. Jur. univ. l. 31.

n Plaut. Caſ. 2. 6. 1

o Turn. adv. l. 11. c. 21.

p Plaut. Pœn. l. 3.

reason *q* it was, that a little bell and scourge was hanged up in the hindmost part of the Chariot, wherein the Lord General did ride in his triumph, a publick Officer which rid with him in the same Chariot, now and then plucking him behind, and bidding him look back, using this form of words, *r Respice post te, hominem memento te*, that is, *Sir look behind you, remember your self to be but a man.* For the sight of the scourge and bell served to put him in mind, that notwithstanding his present Triumph and Acclamations, his after-miseries might be such, that he might be punished not only with whips, but even with death it self.

q Rosin. ant. l. 10. c. 29.

r Tertul. Apolog. c. 33.

CAP. 3.

Furca, Furcifer, Supplicium more Majorum, στρεβλα.

ANcient Authors which do write of the Roman *Furca*, do rather mention it, then explain it: but if we diligently observe what they speak of it, we shall find the use thereof to have been threefold. The first ignominious, which *a* was when the Master forced the servant for small offences *furcam circa urbem ferre*, to carry his *furca* upon his shoulders about the City, confessing his fault, and admonishing others to beware of the like offence, and *b* hence such a servant was afterward called *furcifer*; and here I think was use of those *stimuli* or goads, whereof I shall speak more in the Chapter following; namely, that when the party thus to be punished dragged back, and shewed himself unwilling, then did the Executioner prick him forward with these kind of goads. The second sort was penal, when the party having the *furca* on his neck, was led up and down the City, or some publick place, and on the way to be whipt, but not unto death: *c* thus *C. Matienus damnatus sub furca diu virgis cæsus erat, & sestertio nummo venit.* He was

a Isidor. orig. l. 10.

b Plut. in Coril.

c Epit. Liv. dec. 5. l. 6.

was afterward sold, and thereof died not under the punishment. The third sort was penal too, but in a higher degree; namely, when the malefactor having his head fastened to the *furca*, was whipt under it unto death; and this was by a peculiar name called *d Supplicium more majorum*. This yet differed from that beheading with an Ax, which was in use among the Romans, and called by the Grecians πελεκισμὸς from πελεκὺς, signifying an ax or hatchet; it differed I say from this, because howsoever there was in this σταυρῷ προσδεσις a tying the party to a stake or post, and also μαστίγωσις, a whipping, in both which it agreed with the former punishment; yet herein they differed, because in the former they were whipped to death, in the latter they were after their whipping beheaded with an ax, as appeareth by the *e* execution of *Antigonus* the King of the Jews. But to proceed in the description of the *furca*, the form thereof I take to be like the beam of a Wain, unto which the yokes are fastned; it resembleth a fork, and the *furca* is called ξύλον δικλῶν, δικρῶν, διδυμῶν, i. e. *lignum duplex, bicornutum, geminum*, in English a forked peice of timber; there is no such piece throughout the whole Wain, as the form of Wains is in these dayes, but only the beam thereof. *f Plutarch* treating of the *furca*, saith that it is ξύλον ἀμάξης τὸ ῥυμὸν ὑποφερόμενον, that is, a peice of timber about the Waggon or Wain, wherewith they upheld the beam; and he addeth, that what the Grecians call ὑποστάτην and στήγμα, the Romans call *furca*: now *Hesychius* describeth στήγμα to be τὸ δικρῶν ὅπερ ὑποτιθέασι τῷ τῆ ἀμάξης ζυγῷ, that is, the forked peice of timber, which they put under the yoke of the Wain; correct *Plutarch* by *Hesychius*, and for τὸ ῥυμὸν read τὸ ζυγὸν, and you have in both the description of the beam in the Wain. Some think that *Plutarch* compareth the *furca* to certain forked pieces of timber, wherewith the Wain was upheld whiles it was unloaded; but how this can stand with *Hesychius* his description of στήγμα, I am yet to learn; notwithstanding

d Sueton. in Ner. 49.

e Dion. l. 49.

f Plut. in Coriol.

ing if we admit this interpretation, that which I would hence infer is rather confirmed, than any way weakned; namely, that the form of the old Roman *furca* was forked; neither do there appear any testimonies so evident to me, as to perswade that among the antient Romans any other was in use. True it is that in after-ages the form thereof was the very same with our *Gallowses*, which are now in use, and this haply began, when the use of crucifying was interdicted, which interdiction we read first to have taken place in *g Constantines* time.

g Sozom. Eccles. hist. l. 1. c. 8.

CAP. 4.

Crux Servile supplicium, Titulus.

CRucifixion hath been a punishment in antient use among the Romans; it was abrogated by *Constantine*. It was a death that commonly servants were sentenced unto, seldom times freemen, whence it is many times noted out by the name of *servile supplicium* by *Tacitus*: yet *h* sometimes freemen, though of the baser sort, and for notorious offences, were adjudged to this kind of death: nay a clear example hereof we have in that * Guardian which *Galba* crucified for poysoning his Ward, for the Guardian calling for the benefit of the Law, and avouching in his plea, *That he was a Roman Citizen*, *Galba* as if he would allay his punishment with some comfort and honour, commanded the Cross already made to be changed, and another to be reared far higher than the ordinary, and the same laid over with a white colour. Those which were thus to be punished, they bore their Cross upon their shoulders to the place of execution. *i Malefici cum ad supplicium educuntur, quisq; suam effert crucem.* *k Artemidorus* is as plain, ἔοικε γὰρ ὁ σταυρὸς θανάτῳ, καὶ ὁ μέλλων σταυροῦσθαι σταυρὸν αὐτὸν βαστάζει, that is, the Cross is like unto death, and he which was to be crucified did first bear it: The party that suffered this kind of death, was first stripped of all his cloaths, for he suffered *l* naked; then

h Vid. Lipsi. de cruc. c. 11. l. 1.

*Suet. Galb 9.

i Plut. de sera. numinis vind.

k Vid. Lipsi. de cruc. l. 2. c. 5.

Artemid. l. 2. c. 58.

then was he fastned unto the Cross, and that commonly with nailes, the Greek word προσήλωσις clearly evinceth as much; we may render it *Clavi fixio*. Now that the equity of the proceeding might clearly appear to the people, the cause of his punishment was written in Capital letters, hence *m Dio* speaketh of a servant dragged to the Cross, μετὰ γραμμάτων τὴν αἰτίαν τῆς θανατώσεως δηλούτων, that is, with letters declaring the cause of his death. This inscription was called αἰτία *Mat.* 27.37. It was also called τίτλος, *Joh.* 19.19. from the Latine word *titulus* used in the same sense. And sometimes ἐπιγραφὴ τῆς αἰτίας, *Mar.* 15.26. or simply ἐπιγραφὴ, *Luke* 23.18. *n Tertullian* and *o Suetonius* calleth it *elogium*. The like kind of publishing the cause either by an Inscription, or by the voice of a common Crier, was not unusual in other capital punishments, as *Attalus* the Martyr was led about the Amphitheatre, πίνακος αὐτὸν προάγοντος, ἐν ᾧ ἐγέγραπτο ῥωμαιστὶ οὗτος ἐστὶν Ἄτταλος ὁ χριστιανὸς. *p* A table being carried before, in which was written in Latine, *This is Attalus the Christian.* *q* That of *q Suetonius* is not much unlike, *Patrem familias detractum e spectaculis in arenam canibus objecit, cum hoc titulo, Impiè locutus Parmularius.* What is meant in this place by *Paterfamilias* and *Parmularius*, hath been already declared in the Chapter of *Fencers*. Moreover, such as were to be crucified were also whipt before they suffered. That same *horrendum carmen* clearly evinceth as much: the parts whereof are two: First, *r Verbera intra aut extra pomerium*. Secondly, *Arbore infelici suspendito*. This whiping was sometimes *sub furca*; so this, * *Valerius* is plain, *Cum servum suum verberibus mulctatum sub furca ad supplicium egisset*: sometimes *ad columnam*. *Artemidorus* is clear in this, προσδεθεὶς κίονι πολλὰς ἔλαβε πληγάς, that is, being tied to the Pillar he received many stripes. Haply *s Plautus* alludeth to the same:

——— *abducite hunc*
Intro atq; adstringite ad columnam fortiter.

Yes, the antient Fathers say that our blessed Saviour

m Vid. Lips. de cruc. l. 1. c. 11.
n Apol. c. 11.
o Suet. in Cal.
p Euseb. eccl. hist. l. 5. c. 1.
q Suet. Domit. c. 10.
r Liv. l. 1.
* Val. Max. l. 1. c. 7.
s Plaut. Bac.
t Prudentius Hieronym. Beda. v. Lips. de cruc. l. 2. c. 4.

was thus whipt: Touching the place or manner the Scripture is silent, only that he was whipt it testifieth, and that with scourges, ὁ δὲ Ἰησοῦν φραγελλώσας παρέδωκεν ἵνα σταυρωθῇ, *Mat.* 27. 26. This fore-whipping I take to be a matter unquestionable, but that they should be whipt on the way towards the place of execution; I much doubt, much more that they should be goaded on the way with pricks and goads by the executioner. That there was *u Stimuleum supplicium*, a kind of punishment with pricks and goads, is evident, and hence cometh that phrase *Stimulo fodere*, and hence that phrase of *Kicking against the pricks*. Parallel to which is that of *Plaut. Truc.* 4. 2. *Stimulos pugnis cædere*. But this kind of punishment I take to have been exercised only by Masters towards evil servants, and that not as preparory to death, but for their reformation in future times: whence by way of contempt, a servant thus handled, was termed *x Carnificinum cribrum*, because he had his back so goared with those pricking instruments that it looked like a sieve full of holes. Otherwise if we understand it as a punishment imposed by publick Authority, we may say, that thereby is denoted a certain punishment exercised towards thieves in time of their examination, that by the pricking and goading of them, the truth might be confessed; * for to that end thieves were thus tortured, and thence were they called *Centrones*, from κέντρον *Stimulus*. Lastly, we must remember that these three words, *Furca*, *Crux*, and *Patibulum*, are many times used promiscuously, signifying the whole Cross on which malefactors suffered: but in strict propriety of speech, *Furca* signifieth that forked instrument of which we treated in the former Chapter; *Crux*, that erect part of the Cross standing upright: and *Patibulum*, the thwart peice of timber upon the top of the Cross: yet sometimes also *Patibulum* is taken for the Roman *furca*, whence *Patibulatus* and *Furcifer* are used as words equivalent, and in both senses it may borrow its name from *Pateo* to lie open; because

u Plaut. mil. 2. 6.

x Plaut. Most. 1. 1. 1.

* Cœl. Rhod. lect. antiq. l. 10. c. 5.

as

as the malefactors hands were spread abroad being fastned to the thwart peice of timber upon the top of the Cross: so were they likewise spread abroad under the *Furca*, his two hands being tied to the two forked ends thereof.

CAP. 5.

Carcer, Ergastulum, Tullianum, Robur, Mala mansio, Nervus, Columbar, Numella, Codex.

HOwsoever *Carcer* and *Ergastulum* are used promiscuously by Modern Writers, yet if we diligently enquire into each words origination, and how they have been used by more antient Authors, we shall find them thus differenced. *Ergastulum* was a Prison much resembling our house of *Correction*, into which servants only were cast: *Carcer* a more publick Prison, unto which men of better rank and fashion upon just occasion were committed. Secondly, the power of sentencing any servant to the *Ergastulum*, was proper and peculiar to the Master of the Servant, without approbation from publick Authority; but the power of committing to the Prison called *Carcer*, was only in the publick Magistrate. Thirdly, *Ergastulum* took away only the liberty and pleasure of life: *Carcer* life it self. The word *Carcer* hath his name *à coercendo*, from restraining men of their liberty. *a* It had two principal parts, the one called *Tullianum*, the other *Robur*, besides many other rooms wherein men were kept close Prisoners: Those two places were assigned for execution. In that which they called the *Tullianum* (we may english it *Dungeon*) they strangled malefactors. *b* It had its name from *Servilus Tullius* a *Roman* King, the first inventor and Author thereof. Of this *Salust* writeth, *Est locus in carcere quod Tullianum appellatur, ubi paulatim ascenderis ad lævam circiter duodecim pedes humi depressus, eum muniunt undiq; parietes, atq; insuper camera lapideis fornicibus juncta, sedin culta tenebris, odore fœda, atq; terribilis ejus facies est.* In that other place which they called commonly

a Sig. de jud. l. 3. c. 17.

b Sig. ibid.

commonly *Robur*, sometimes *c Robustus Codex*, sometimes *d Custodia lignea*, sometimes *e Italum Robur*, (our English phrase *strong hold* fitly answereth it) they broke malefactors necks by a kind of precipitation or tumbling them headlong *f* from a certain stock of a Tree fastned there in the earth; unto this *Tully* alludeth, *Quæro fregeris ne in carcere cervices illi ipsi Vectio*: But more expresly *Plautus*, *g At ego faciam vos ambos in robusto carcere ut pereatis.* Those that had the chief oversight in such executions, were called *Triumviri capitales*, that is, *High Sheriffs*. The whole proceeding is set down by *Valerius*, *h Mulierem damnatam Prætor Triumviro necandam in carcere tradidit, quam receptam is qui custodiæ præerat, misericordia motus non protinus strangulavit; aditum etiam filiæ dedit, sed diligenter excussæ, ne quid sibi inferret, existimans futurum, ut inedia consumeretur; cum vero animadvertisset filiam matrem lactis sui præsidio sustentantem, rem ad Triumvirum, Triumvir ad Prætorem, Prætor ad consilium judicum pertulit, & remissionem mulieri impetravit.* It is much controverted among interpreters what that kind of punishment was which they termed *Malam mansionem*, we may Englisht it *Little-ease*. Some understand hereby a certain deepe dungeon, made in the form of a pit or well, called therefore in Latine *Putens*, but this as it seemeth by that of *Plautus*, was a punishment proper and peculiar to theevish Cooks: *i Coqui abstulerunt, comprehendite, vincite, verberate, in puteum condite.* Others understand hereby a close Prison, which because of its straitness and closeness they called *arcam*, a chest: the use of this Prison was for the safe keeping of such who were afterward to be examined of farther matters; though sometimes other offenders were cast into the same. Of these Prisons *Tully* speaketh, *k Subito abrepti in quæstionem, tamen separantur à cæteris, & in arcas conjiciuntur, ne quis cum his colloqui possit.* Another kind of Prison there was, called *Sextritium*, thus it is commonly rendred in Latine, but the Greek word is σεξτίφτον and accordingly *l Turnebus* renders it *Sestertium*, being

c Plaut. Pœn. 5.3.
d Plaut. Pœn. 5.6.
e Hor. lib. 2. Od. 13.
f Turn. adv. l. 23. c. 21.
g Plaut. in cur. c fact. 5. se. 5.
h Val. l. 5. c. 4.
i Plaut. Aulul. 2.5.
k Cic. pro Milone.
l Turn. adv. 3. c. 18.

being of opinion that it was so called from the quantity of ground it contained, namely two acres and an half. *C. Rhodiginus* thinketh that *Spoliarium* and *Sextritium* were not places unlike; but herein not he alone, but divers others have been deceived; for *Sextritium* is apparently a place of *b* execution, where those were executed whom the *Roman* Emperours adjudged to death: now whether that *Spoliarium* were a place of punishment, I much doubt. What in Latine we call *Spoliarium*, that the Greeks termed ἀποδυτήριον both do signifie primarily little Cells or Chambers neer adjoyning to the Bath, where such as washed themselves laid up their cloaths: In a borrowed sense both are used to signifie Chambers and Cells adjoyning near unto the Amphitheatre or fencing place, wherein the Fencers did put up their cloaths in time of fight, and because such as were wounded in fight were carried into those Chambers, where they languishing with much pain, at last notwithstanding expired for the most part, and that not without much torturing of the Chyrurgion, hence such a *Spittle-house* is also called *Spoliarium*. Thus much *Seneca* seemeth to intimate, *c Nunquid aliquem tam cupidum vitæ putas, ut jugulari in spoliario, quam in arena malit?* Whereby it appeareth that *Spoliarium* was not a prison, unto which malefactors were judged, but rather as I said, a kind of *Spittle-house*. Other kind of punishments there were of a near likeness with Imprisonments, as casting into the Pillory, laying one by the heels, *&c.* Of these little is spoken more then the very names; of this sort those that do most commonly occur in authors, are these; *Nervus*, *Columbar*, *Numella*, *Codex*. *Nervus* is generally thought to resemble our *Stocks*. *d* Some take it to be made of wood, others of Iron, *e Nervum appellamus ferreum vinculum, quo pedes impediuntur: quanquam Plautus eo etiam vinciri cervices ait.* Two of the last seem to have some resemblance with our Pillory: *Collumbar* had its name from *Collum*, because the neck was chiefly pained in

b Flut. in Galba.

c Scen. ep. 94. De spoliario. Vid. Lipsi. Sat. 1. 18.

d Vid. Taubman. in Plaut. Aulul. 4. 10.

e Fest. Vid. Lam. in Plau. Aulul. 4. 10. 1.

in this kind of punishment. *Numella* was also a kind of *Pillory*, being so called, *quasi n Nuella, quod qui eo vinculo constricti erant, nuere demissoq; capite esse cogebantur. Codex* was a certain block or *Clog*, so tyed unto the Malefactors, that they used it as a stool to sit on: the use of this may seem to have been only in private houses, thereby to keep evil servants the closer to their work: Of this *Juvenal* speaketh, *Sat.* 2.

n Turn. adv. l. 23. c. 21.

Horrida qualefacit residens in codice pellex.

o Turnebus describeth it thus, *Codex est ligneus stipes, quem allegati servi qui deliquerant trahebant, cuiq; insidebant vincti.*

o Turn. ibid.

CAP. 6.
CULEUS.

THe Crime which in Latine we call *Parricidium*, is murther practised by Father or Mother towards the children, or by the Children towards either of their Parents. It had in old times a larger acception, signifying any murther between man and man, and then it was called *Parricidium, quia par parem occiderat.* The word taken in his first and proper signification, denoted a fact so unnatural, that neither *p Solon* nor *Romulus* would determine any punishment against such offenders, because they thought none so wicked as to commit it, and the prohibition it self might prove a kind of irritation to provoke some to the commission of the crime, which otherwise would never have entred into their hearts: but the wickedness of the aftertimes, enforced Law-givers to invent a sharp punishment against such unnatural offences. The Punishment decreed against Parricides in *q Seneca's* Age, was, that such malefactors should be sowed up in a leathern sack, together with Serpents, and so cast into the Sea: afterward there was sowed up in the same sack an Ape, and a Cock, and at last a Dog. Whence *Juvenal Satyr.* 8.

p Cic. pro Sext. Rosc.

b Sen. l. 5. controv. 4. in fine.

Cujus

Cujus ſupplicio non debuit una parari
Simia, nec ſerpens unus, nec culeus unus.

a Modeſtus deſcribeth the manner thereof thus: The Parricide being firſt whipt with rods until the blood came, then was he ſewed up in this ſack called *Culeus*, together with a Dog, a Cock, a Serpent, and an Ape. *b* They would not caſt him naked into the ſea, leſt the water thereof thereby might be polluted, wherewith all other pollutions in their opinion were expiated.

a Digeſt. lib. 48. ad legem Pomp. de parric. vid. Cœl. Rhod. l. 11. c. 21

b Cic. pro Sext. Roſc.

CAP. 7.

Eculeus, Lamina, Ungulæ, Fidiculæ, χειροξὺς.

Culeus had its derivation from *Equus*, *quaſi Equuleus*, as may be collected from that deſcription which *c Turnebus* giveth: But not ſo much from the poſiture or ſituation of the offendors body on the Engine, as *Turnebus* would have it, for he in no wiſe reſembled a man on horſeback, but rather from the horſing and hoiſing up of the party faſtned with ropes unto the *Equuleus*, ſo that his hands being tied faſt at the upper part of the Engine, and his feet at the nether part, he was hoiſed up in the Air like unto one faſted on a Croſs. The form of the *Equuleus*, I conceive thus, It was not one entire ſtake, but rather two long peices of timber joyned together in form of a ſtake, joyned together, I ſay, by the meanes of a vice or ſcrue: and the reaſon hereof was, that by help of this ſcrue, the upper part of the Engine might be lifted up to the racking and torturing of the malefactor, or let down to the eaſing and remitting of his pains, as ſhould ſeem good to the executioner, or other Officers, who now and then would grant ſome remiſſion and reſpite in hope of a confeſſion. For in the firſt inſtitution, the main end of this torture was to work out the knowledge of the truth. Neither did they alone rack the parties joynts in this kind of puniſhment, but to enforce him unto a confeſſion by an augmentation of his pain,

c Turn. adv. l. 4. c. 3.

they did often with hot plates and iron pinsers, burn and tear his flesh from his sides; and all this we shall find warranted by *d Sigonius*, whose words I have written down at large: *Eculeus casta fuit lignea, chocleata, ad intendendum ac remittendum apta, atq; ad torquendos homines, ut facti veritas eliceretur, institutа. Tormenti vero genus erat hujusmodi, ubi catastæ huic brachia pedesq; ejus, qui torquendus erat, nervis quibusdam, quæ fidiculæ dicebantur, alligaverant, tum catasta intenta atq; in altum erecta, ut ex ea quasi ex cruce quadam miser ille penderet, primum compagem ipsam ossium illius divellebant, deinde candentibus ejusdem corpori laminis admotis, bisulcis unguibus ferreis lateribus laniatis doloris acerbitatem augebant.* And thus we see what the use of those *Laminæ* & *Ungulæ* were; namely, that they were not several torments of themselves, but adjuncts to this, to increase the pain. The *Eculeus* was sometimes called *e lignum tortorium*; sometimes *f stipes noxialis*. The torturing Engine called *Fidicula*, was not much unlike: *Fides* signifyeth the string of any musical instrument, and the Engine had its name from the strings and cords wherewith men were tortured upon it: of this *g Turnebus* writeth, *Fidiculæ quæ in tormentis numerantur, mihi videntur lascivia quadam joci novem invenisse quod ut in fidibus nervi item quoq; ut hinc & inde multis funibus homines distendebantur.* The torment γεννικὸς used by the *Grecians*, was either this same or very like

d Sig. de. jud. l. 3. c. 8.

e Sozo. hist. Eccl. l. 5.

f Prudent. in hymno. Vincent. Mart.

g Turn. adv. l. 4. c. 3.

CAP.

CAP. 8.

De rupe Tarpeia dejectio. De lapide empti. A furca redempti. Scalæ Gemoniæ. Tunica. Damnatio in gladium, in ludum, ad beſtias.

MAlefactors for notorious offences were tumbled down headlong from a certain rock in the *Tarpeian* Mount. This kind of puniſhment was called either ſimply *Dejectio è ſaxo*, or *Dejectio è Terpeia rupe*. In ſome caſes notwithſtanding by the interceſſions of friends, or ſome other meanes, Pardons were ſometimes obtained for the condemned perſons, whereby they were freed from death, howſoever the diſgrace and infamy cleaved ever after unto them, and therefore they were termed *de lapide empti*: which phraſe *b Cœl. Rhod.* hath paralle'd with that; *à furca redempti*, that is, *Saved from the Gallows*. In the *Aventine* Mount was a place of like nature, called *Scalæ Gemoniæ*, certain ſtairs whither condemned perſons were dragged, and ſo caſt into the River *Tiber*. *Cœl. Rhod.* ſeemeth to be of another opinion: *i* who deſcribing this puniſhment, ſaith that a hook was thruſt into the malefactors throat, and ſo he haled by the Executioner unto theſe ſtairs, where having his thighs broken he was burnt. Furthermore he addeth that they were called *Scalæ Gemoniæ* or *gradus Gemonii*, becauſe as ſome are of opinion, the firſt that ſuffered this kind of puniſhment, his name was *Gemonius*: or as others would have it, becauſe it was *locus gemitus & calamitatum*. If we admit that malefactors were here burnt, then may we think this puniſhment *ad Scalas Gemonias* to be the ſame which ſometimes was called *Tunica*. The reaſon of which name was, becauſe perſons thus to be burnt, were clad with a Coat dawbed in the inſide with pitch and brimſtone. Thence is that of *k Seneca*, *Cogita illam tunicam alimentis igneam & illatam, & intextam*. This giveth light to that of *Juv. Sat.* 8. *Tunica punire moleſta.*

b Cœl. Rhodiginant. l. 25. c. 22

i Cœl. Rhod l. 10. c. 5.

k Sen. ep. 14.

l Tertul. ad Martyr.

l Tertullian also mentioneth it in this sense. To these may be added two other punishments usually inflicted upon fugitive servants, but yet not so restrained unto them, as that they were not sometimes extended to other malefactors. The first is *Damnatio in gladium*, a condemning one into a Fence-school, there to be trained up in the Art of Fencing, untill some publick prizes were plaid, at which time such a condemned person was to fight for his life, *m Capitolinus* calleth it *Ad gladii ludum deputationem*. But *Ulpian*, as *n* Lipsius elsewhere observeth, differenceth these two phrases thus: He that was *ad gladium damnatus*, was either presently put to death, or else at fartherst within the compass of a year: but he that was *damnatus in ludum*, had not death so peremptorily sentenced upon him: if he escaped the danger of those publick prizes, and alwayes got the upper hand of his adversaries, at three yeares end he received the *Rudem* or wand, which was a token of discharge from those bloody combates: yea, at five years end he received the *Pileum* or Cap, which was a token of enfranchisement or freedom in the City. The second sort was *Damnatio ad bestias*, a condemning of a man to fight for his life with beasts, as with Bears, Leopards, Lions, &c. The persons condemned, were termed *o Bestiari*. A memorable example thereof we have in a certain Roman servant called *Androclus*, *p* who having run from his Master, lived in a wilderness, and whiles he rested himself in a den, there came a fierce Lion unto him, moaning and grieving because of the stump of a Tree which stuck fast in his foot: *Androclus* at first began to be affrighted, but the Lion coming nearer and nearer unto him, and laying his foot on the mans lap, intimated his desire of help from him, which when the man perceived, he plucked out the stump, and gave him what ease he could. Afterward this fugitive being apprehended and adjudged to this punishment, it hapned that this very Lion was brought into a shew-place for *Androclus* to fight with, where instead of

m Vid. Lipsi. Sat. l. 2. c. 3.
n Lipsi. Sat. l. 2. c. 23.

o Alex. ab Alex. l. 3. c. 5.
p A. Gell. l. 5. c. 14.

a

a fierce onset, the Lion used a tame and familiar fawning on him, whereupon the spectators admired, and understanding the former passages between *Androclus* and the Lion, they released the servant, and freed him from his punishment. Where we must note, that this Pardon was extraordinary: *q* for usually if any so condemned happned to overthrow a Beast or two, yet was he not thereby discharged, but was to encounter with others untill he were killed. Yea, it was very seldom that the man could prevail against the beast; on the contrary, one Lion hath prevailed against two hundred men, according to that, *r Præclara ædilitas, unus Leo ducenti bestiarii.* By which we see many men one after another did thus fight with beasts at the same meeting: yea the *s Grecians* calleth such as succeeded the first Combatants ἐφέδρους; the Apostle St. *Paul* calleth them ἐσχάτους, because they were reserved untill the last. *u Tertullian* readeth that place in this sense, and the words themselves enforce as much: for what shall we understand by θέατρον ἔτεν ἐθέμεν, but the very spectacle or shew it self (and what ἀπέδειξεν, which signifieth properly *Ostendit*, but an allusion to him who was the chief Author and exhibiter of these bloody spectacles unto the people? * *Lipsius* hath parallel'd that phrase of *Tully, ostendere munus*, with that of *Suetonius, proponere munus*; both signifying the setting forth or bestowing the sight of such masteries and fightings. And that it was no unusual kind of Martyrdom in times of the the Primitive Church, thus to expose holy men to the fury and rage of wild beasts, appeareth by the example of *Ignatius*, who rejoyced to be ground between the teeth of wild beasts, that he might be found pure bread; whose words were *x Frumentum sum Christi, & per dentes bestiarum molor, ut mundus panis Dei inveniar*; yea the word Ἐπιθανατίους, *morti addictos*, helpeth this interpretation: The word intimateth that there was a sure death remained for them also, though the last; The custom being in the morning to commit men with beasts, but those

q Salmut. in Pancirol. de veter. ludis.

r Cic. in orat. pro Sastio.

s Suidas. in voce ἔφεδρος 1 Cor. 4. 9.

u Tertul lib. de pudicit.

* Lips. Sat. l. 2. c. 18.

x Iren. adv. hær. l. 5. c. 28. It. Eus. hist. Eccl. 3. c. 33.

ἐσχατο-

ἐχανὶ· which remained till noon-tide, and were therefore called *y Meridiani*, were committed each against other, and that without any defensive weapons, with swords in one hand cutting, and with the other hand being empty, grasping and tearing each others flesh, so that *z Seneca* speaking of this, comparing it with that former fighting with beasts, saith *Quicquid ante pugnatum est, misericordia fuit.*

y Suet. Clau. c. 34.

z Sen ep. 7.

CAP. 9.

Ergastulum. Ergastula inscripta. Pistrinum. Damnari in Antliam. Metallum. Inscripti. Stigmatici. Literati. Virgæ. Flagella. Talio.

THe state and condition of servants was various and differing among the Romans in old time, but of all they were most miserable who lived in prison. Whence those that were ordinarily imployed in these prison services, they were either such servants as were bought for that purpose, or such as for notorious crimes were adjudged thereunto in way of punishment, whence the word *Ergastulum* is justly derived from the Greek, Ἐργάζομαι because it is τὸν ἐν οἷ δεσμῶν Ἐργάζον *locus in quo vincti operantur.* For even in the day time when they were sent to work, they had shackles and bolts about their legs to prevent their scapes or running away, though not so big as those into which they were cast at night when they returned into prison. Their fetters or bolts are oftentimes in antient Writers (peradventure from the form of their links) termed *Annuli*, and they themselves said to have *pedes Annulatos.* They had also their foreheads marked or burned with some letters of infamy, which is the reason of *Juvenals* Epitheton, *Inscripta Ergastula.*

Quem mirè adficiunt inscripta Ergastula.

The labours in which they were imployed, were sometimes digging, delving, and tilling the ground: sometimes digging of quarry pits, sometimes grinding with an hand-mill, sometimes drawing water: This latter kind of

of puniſhment in *m Suetonius* his phraſe is *In Antliam damnari*. Thoſe Criticks who for the word *Antlia* do ſubſtitute *Anticyra*, or *Andia*, or ſuch like names of Iſlands, do utterly fail of the Authors ſcope and driſt: for the puniſhment which *Suetonius* ſpeaketh of, is ſome ſtrange or unuſual puniſhment: now ſeeing that Senators themſelves were often exiled, it could not ſeem ſtrange that Roman Knights ſhould be baniſhed into forraign lands; but this was a matter unuſual, and unheard of, that a Roman Knight ſhould be imployed in ſuch drudgeries. Again, the word *Antlia* fitly denoteh ſuch a kind of labour, whether we reſpects its Etymologie ἀπὸ τῦ ἀντλᾶν or its ſignification in Latine Authors, it being uſed by them to ſignifie a great bucket or water-ſcoop to draw up water. Thus *Martial. Curta laboratas antlia tollit aquas.* The hand-mill is often expreſt by the Latine word *piſtrinum*, a word frequent in Comical Authors. It much reſembled our *Bride-well*, or place of correction, being called *piſtrinum à pinſendo*, from pounding. For before the uſe of mills was known, the Romans did pound their corn in a great morter, calling the place where they pounded it *piſtrinum*: whereupon our hand-mill hath retained the ſame name to this day. And becauſe of the great pains that men did ſuffer in pounding, as likewiſe the ſtrict diſcipline uſed towards ſervants thus puniſhed (for *u* their neck was thruſt into a certain wooden Engine called *Pauſie cape*, made for the purpoſe, leſt haply in time of grinding they might eat of the meal) hence grew a cuſtom among them, that when a ſervant had offended his Maſter, he would menace him in this manner, *In piſtrinum te dedam*, I will caſt thee into *Bride-well*. The puniſhment *Metallum* was not much unlike the digging in mettal-mines, and working in mettal houſes; it appeareth not only to have been a baſe and ſervile, but alſo a very laborious and painful work; whence it was eſteemed a greivous puniſhment to be adjudged to mettal works, or caſt into a mettal houſe. And either for the encreaſe of ſuch

m Suet. Tib. c. 51.

n Turn. adv. l. 4. c. 13.

such mens pains, or for to keep them from escapes, they were enforced to work with their fetters and gyves about them, as is implied by *o Ulpian*, who makes the difference between these two phrases, *Damnari in metallum*, & *Damnari in opus metalli*, to be thus; that the first sort did wear heavier and greater fetters than the last. How true the difference is, I leave to the enquiry of others; but that it was a great and infamous punishment, *p Tertullian* witnesseth, in that speech of his against the Heathen people, *De vestris semper æstuat carcer, de vestris semper metella suspirant.* Sometimes there was only ignomy and disgrace intended in their punishments, of which sort was the bearing up and down the Roman *furca* in the Market-place, or elsewhere in publick view, whereof I have spoken in the Chapter of *Furca*; likewise a branding of the malefactor with some infamous letter in his forehead or hand, or some other part of the body: whence *q Pliny* calleth such servants *Inscriptos*. Generally they are called *Stigmatici*, from στίζω, which signifieth to brand with marks; as *Nebulo stigmaticus*, a rogue burnt in the hand, or any way marked; sometimes such are called *Literati*. The *Athenians* being enemies to the *Samii*, as often as they took them captives, they did use thus to burn them for rogues, which occasioned that proverbial scomm, *Samiis neminem esse literatiorem.*

o Vid. Cœl. Rhod. l. 10. c. 5.

p Tertul. Apolog. c. 44.

q Plin. l. 18. c. 3.

r Cœl. Rhod. l. 7. c. 13.

Sometimes besides the disgrace, there was also toilsom pains, as appeared by their *Ergastula*, and sometimes to their pains, stripes added: Though I deny not but that many times, correction with stripes was a preparation for death it self. This correction by stripes was twofold; either it was *Verberatio*, or *Flagellatio*: The first was with rods called *Virgæ*; the other with scourges called *Flagella*. That there was a difference between *Virgæ* and *Flagella*, is plain by *Tully*, where by way of irony he saith, *Porcia lex virgas ab omnium civium corpore amovit; hic misericors flagella retulit.* Both of them were counted servile, so that freemen were ordinarily exempted from them, as appeareth.

——*m Ad necem operire loris. San. Horis liber?* m Ter Adelp. act. 2. ſcen. 1.

Horace alſo intimating the ſervile condition of *Mava* ſaith:

n Sectus flagellis hic Triumviralibus. n Epod. Od.

They are called *Flagella Triumviralia*, from thoſe *Triumviri* who formerly I tranſlated Sheriffs, becauſe to them belonged the overſight of this puniſhment. *Euſtathius* calleth them ἀστραγαλωτὰς μάστιγας, i. e. *Flagra talaria, ſeu taxillata*, becauſe to augment the pains, they did uſually in theſe ſcourges tie certain huckle-bones, or plummets of Lead at the end of the whip-cords, or thongs, and ſuch ſcourges they termed *Scorpiones*. The cruelty of the ſcourges was ſuch, that they many times died under them. Thus have we generally and briefly touched the more uſual puniſhments. But ſometimes wrongs done between party and party, were puniſhed with a retaliation of the ſame kind: according to that, *A tooth for a tooth, and an eye for an eye*. And this kind of puniſhing was called *Talio*. Yet we are to know that a ſimple retaliation, ſuch as is termed *Talio Pythagorica*, was not alwayes exacted, but ſometimes ſatisfaction might be wrough by a commutation of the puniſhment. *o Reus habuit facultatem paciſcendi, & non neceſſe habuit pati talionem, niſi eam elegiſſet*. It were endleſs to ſpeak of all their Puniſhments, and haply not worth the labour, their very names being ſufficient Comments to explain them. As *Effoſſio oculorum, Amputatio manuum, Crurifragium, Talifragium*, and ſuch like.

Tholoſan. in ſyntag. jur. univ. c. 11. l. 31.

o A. Gel. l. 11. c. 1.

LIB. III. SECT. IV.
Of the Roman *Laws.*

CAP. 1.
De Legibus.

HAving ſpoken of the Civil Magiſtrates, and Puniſhments, we will now alſo deſcend unto the Civil Law: where firſt we will note among other differences between *Jus* and *Lex*, principally theſe. 1. *Lex* ſignifieth only the Law, but *a Jus* ſignifieth alſo that place whereſoever the Law of Juſtice was adminiſtred: not only if it were adminiſtred out of the Tribunal in the *Comitia*, or great Hall of Juſtice, which was termed by the Lawyers *Agere pro Tribunali*: But alſo if it were adminiſtred in a private houſe, or in ones journey, ſo that it were by a lawful Magiſtrate, and out of the curule chair; and that was termed by the Lawyers, *Agere de plano*; and hence is it that *In jus vocare* ſignifieth to cite one into the Court. 2. *Lex* ſignifieth only the written Law, but *Jus* ſignifieth equity, ſo that *b Jus permaneat ſemper nec unquam mutetur, Lex vero ſcripta ſæpius.* Notwithſtanding theſe two words are uſed promiſcuouſly one for the other, and therefore leaving all curious differences between thoſe words (whether the Roman Laws were truly *Jura* or *Leges*) thus much we may obſerve, that the laws uſed among them were of three

Sig. de jur. l. c. 7.

b F. Sylv. in orat. pro Mil.

three ſorts: either they were ſuch as were made by ſeveral *Roman* Kings, and afterward collected and digeſted into a method by *Papirius*, *c* from whence it was called *Jus Papirianum*: or they were ſuch as the *Decem viri* brought from *Athens*, and were called *Leges 12 Tabularum*: or laſtly they were ſuch as the *Conſuls*, the *Tribuni plebis*, and ſuch Magiſtrates did preſer, whence every ſeveral law bore the name of him or them that preferred it. My purpoſe is to explain only this latter ſort, and that not all of them, but ſuch alone as I have obſerved in *Tully*, and that chiefly in his Orations. My proceeding ſhall be firſt to ſhew the divers kinds of Judgements: and then to deſcend unto the laws themſelves, beginning with thoſe which ſhall concern the *Roman* Religion, and then proceeding to the others which concern the Common-wealth.

c F. Sylv. in ep. virorum illuſt. l. 5. ep. 11.

CAP. 2.

De Jure publico & privato.

THe caſes to be decided by the law were either publick or private, and accordingly were the judgements *d vel privata in quibus jus ſuum privatus quiſq; perſequebatur; vel publica, in quibus injuria quæ reip. facta erat vindicabatur.* The private (as we obſerved before) belonged unto the *Prætori urbano & peregrino*, that is, the L. chief Juſtices who did either give judgement themſelves, and then were they ſaid *judicare*, or they did appoint others to ſit in judgement, and *e* then were they ſaid *Judicium dare*: in the abſence of the *Prætor* there were ten called *decem viri litibus judicandis*, i. e. *f ſuper lites judicandas*, who in the ſame manner as the *Prætor*, might either give judgement themſelves, or appoint others, for they were even in *g* one place, and inſtead of *Prætors*. Thoſe which either the *Prætor* or the *Decem viri* did appoint to debate the caſes under them, were taken out of the *Centum viri*, and is *h* out of certain Commiſſioners choſen for that purpoſe

d Sig. de jur. Rom. l. 2. c. 18.

e Sig. de jud. l. 1. c. 7.

f Roſin. ant. l. 7. c. 29.

g Alex. Gen. dier. l. 3. c. 16.

h P. Ramus. in 2 m. de lege Agrar.

ppose, namely three out of every Tribe or ward: so that in all the number of them amounted unto an hundred and five: but in a round reckoning they went for an hundred: and from a certain spear that was wont to be erected up in token of this court, hence was the *i* court called either *Prætoria Decemviralis*, or *Centumviralis hasta*. In some cases their form of acquittance was thus *k Secundum illum litem do*, whence *l Tully* saith, *quo minus secundum eos lis detur, non recusamus*, that is, we do not deny but they may be acquitted. Those that were cast in their suit, were said *Lite vel causa cadere*. The publick cases belonged ordinarily (except the *Consuls*, the Senate, or the people did interpose their authority) unto those whom we called *Prætores Quæstores*. Some have thought them to be the same with those whom *m Rosinus* calleth *Judices Quæstionum*, and that I think not altogether upon unsure grounds: first, because much of these publick cases which they termed *Quæstiones*, had their *n* several *Prætors* to enquire them, whence they were called *Quæstores*; and may in my opinion be called *Judices Quæstionum*, especially seeing that those which would have them be different officers, cannot well shew the differences of their offices. Now as the Urban *Prætor* had a hundred Commissioners under him, so had these *Prætores Quæstores*, certain Judges chosen *o* by the Urban, or forreign *Prætor*, when he took his oath: and that not according to his pleasure as many as he would, or whom he would, but sometimes more, sometimes fewer, sometimes only out of the *Senators*, sometimes only out of the order of Roman Gentlemen, sometimes out of both, sometimes also out of other orders, *p* according as the law appointed, which oftentimes varied in those points. The Judges how great soever the number was, *q* were called *Judices selecti*, and were divided into several companies called *Decuriæ*. These Judges were upon any citation from any of the *Prætors*, to give their assistance in the Court upon the day appointed by the *Prætor*. Now the manner how they

Sig. de jud. l. 1. c. 28.

k Sig. de jud. l. 1. c. 29.

l Cic. pro Q. of c ia.

m Rosin. ant. l. 2. c. 18.

n Sig. de jud. l. 2. c. 4.

o Sig. de jud. l. 2. c. 6.

p Sig. ibid.

q Sig. de. jur. Rom. l. 2. c. 18.

they did proceed in their judgement, followeth in the expoſition of one of the Laws, and therefore I will refer the Reader thither. Only let him by the way underſtand, that whereas *Tully* is quoted in every law, it is not ſo much for the proof of the law, as to ſignifie that he in that place maketh mention thereof. For the proof of the laws I refer the Reader to *Roſinus* and *Sigonius*; touching the expoſitions, my marginal quotations do prove ſufficient.

CAP. 3.

De legibus religionem ſpectantibus.

Lex Papiria.

L. *Papirius Trib. pleb.* eſtabliſhed a law touching the Conſecration or hallowing of places, that it ſhould be unlawful for any to conſecrate either houſes, grounds, altars, or any other things, *Injuſſu plebis*, that is, without the determination of the Roman people in their aſſemblies, called *Comitia Tributa*, which determination was alwayes termed *Plebiſcitum*. Cic. pro. Domo. Cic. Phil. 2. Item pro.

Roſcia lex.

L. Roſcius Otho. Trib. pleb. preferred a law, that whereas heretofore the Roman Gentlemen did ſtand promiſcuouſly with the Commons at their Theatral ſhews, now there ſhould be fourteen benches or ſeats built for thoſe Roman Gentlemen which were worth H. S. *quadraginta*, that is, about 3125. *l.* of our Engliſh money. As for other Gentlemen, whoſe ſubſtance was under the rate, they had a certain place allotted them by themſelves, with a puniſhment impoſed upon them, if they offered to come into any of thoſe fourteen benches.

Here we muſt note that this character *H. S.* ſtandeth for a ſil ver coyn in *Rome*, called *Seſtertius*, and is by *Roſinus* in this place improperly uſed for *Seſtertium*; for this Character *H. S.* is by our Printers falſe Printed, the true Character ℥ being *L. L. S.* ſignifying *duas libras* (as the two *L. L.* do intimate) and *Semiſſem*; which is intimated by the [r] Fr. Matur. in Phil. 2.

the letter *S*. Where if *Libra* doth signifie no more then the *Romans* coyn called *A.S.* then is this opinion touching the characters *L.L.S.* easie to be confirmed. For divers authors *s* rendring a reason of the name *Sestertius*, say it was so called *quasi Semitertius*, that is, such a coyn as containeth *Duos solidos asses & semissem*. This *Sestertius* was such a common Coyn among the *Romans*, *t* that *Nummus* & *Sestertius* became at length one to be used for the other. *u Mille hujusmodi sestertii vel nummi faciunt unum sestertium in neutro genere, & conficiunt plus minus viginti quinque coronas*. According to which rate, *quadraginta sestertia* amounteth to 3125. and every particular *sestertius* is according to this rate, in value three halfpence farthing *q*.

s Ch. Hegendorphius in Verinam. 1.

t P. Nannius in Verin. 5.

u Ch. Hegendorphius in Verinam. 5. m.

And here we may fitly observe the art of numbring by these *Sesterces*, which consisteth in three rules. First, if the numeral or word that denoteth the number be a noun adjective agreeing in case, gender and number with the substantive *sestertius*, then it signifieth precisely so many *sestertii*; for example sake, *Decem-sestertii* do signifie so many times i^l. *ob*. q^1. *q*. 2. If the numeral being an adjective, and of a different case, be joyned with *Sestertiûm* in the genitive case plural, then doth it note so many thousand *Sestertii*. For example, *Decem Sestertiûm* signifieth ten times 7.*l*.16.s.3.d. Thirdly, if the numeral joyned with *Sestertiûm* be an Adverb, then it signifieth so many hundred thousand *sestertii*. *ex. gra. Decies sestertiûm* do signifie ten hundred times 7. l. 16.s.3.d. Yea the numeral being an adverb, is sometimes put simply by it self, without the addition of any other word to signifie in the same manner, the genitive case *Sestertium* being understood. For the better conceiving hereof the former example may be thus set down.

Decem

Decem sestertii.	valent	10. *Sestertios*	de nostro	0000 l. 01. s. 6. d. *ob q.*
Decem sestertium.		10. *Millia sestertium.*		0078. 02. 6. 0. 0.
Decies sestertium.		10. *Centena Millia sestertium.*		7812 10. 0. 0. 0.
Decies.				

Clodia lex.

Publius Clodius Trib. Pleb. made a law, by vertue whereof the Priests called *Pessinuntius sacerdos* (from the place where he did first exercise those holy rites in the honour of the mother Goddess) should be deprived of his Priesthood, and the temple built in the honour of this Goddess should be bestowed upon *Brodigarus* of *Galla-Græcia.* Cic. pro Sext. item de Arusp. respon.

Domitia lex.

Cn. Domitius Abenobardus Trib. pleb. enacted a law, that the Colledges of Priests should not as they were wont, admit whom they would into the order of Priesthood, but it should be in the power of the people. And because it was contrary to their religion, that Church-dignities should be bestowed by the common people, hence did he ordain that the lesser part of the people, namely seventeen Tribes should elect whom they thought fit, and afterward he should have his confirmation or admission from the Colledge. Cic. Agrar.

Lex incerti nominis de vacatione sacerdotum.

Cicero in his orations mentioneth a law (not naming the Author thereof) whereby the Priests were priviledged from their service in all wars, except only in uproars or civill tumults, *x* and these priviledges were termed *Vacationes.* Cic. Phil. 8. & pro Font.

x B. Latom. in Phil. 5.

CA P.

CAP. 4.
De civitate & jure civium Rom.

Forcia lex de civitate.

Cic. pro Rab. & ſæpe alias.

M. *Forcius Trip. Pleb.* eſtabliſhed a law, that no Magiſtrate ſhould beat any Roman Citizen with Rods.

Lex Sempronia.

Cic. pro Cluentio, & ſæpe alias.

C. Sempronius Gracchus Trib. pleb. preferred a law whereby he diſabled the Magiſtrate from puniſhing any Roman Citizen either with rods or with his ax, that is, with death, without the allowance of the people: Secondly, by vertue of this law, if any Magiſtrate did condemn any Roman Citizen *Indicta cauſa*, he ſhould be liable to the judgement and cenſure of the people. A third clauſe to this law was, *Ne quis coiret, conveniret, quo quis judicio publico circumveniretur Indicta cauſa.* He was ſaid to be condemned *cauſa indicta*, which was condemned before he had ſpoken for himſelf. Although *y indicere pro non dicere, ſicut & invidere pro non videre vix reperiatur, tamen indictum & inviſum, pro non dicto & non viſo, ſæpe reperiuntur.* *z* They were properly ſaid *Coire*, which did work under-hand againſt a man that he might be condemned: we may tranſlate it in this place to Conſpire. *a* The verb *Circumvenio* doth commonly ſignifie as much as *Circumſcribo*, to deceive or cheat one: but in this place to oppreſs one with falſe judgment procured by bribery or confederacy.

y P. Ramus in orat. pro Rab.

z F. Sylv. in orat. pro Cluentio.

a J. Camer. in orat. Cic. pro L. Flac.

b F. Sylv. in orat pro Cluentio.

Lex Papia de peregrinis.

Cic. pro Balb.

The priviledges of the Roman Citizens became ſo great, that almoſt all the inhabitants of the confederate nations, would forſake their own dwelling, and uſe meanes to become free deniſons in the Roman City: inſomuch that the Embaſſadors of the allies and aſſociates did grieve much and complain of the loſs of their inhabitants: whereupon a law was made by *Papius*, that all forreigners and ſtrange comers ſhould be expelled out

out of the City. To the same effect was *Lex Junia*, and also *Licinia Mutia de peregrinis*: the first being preferred by *Mar. Junius Pennus*, the second by *L. Licinius Crassus*, and *Qu. Mutius Scævola.* Cic. offic. l. 3.

Servilia lex de civitate. Cic. p. o Balb.

C. Servilius Glaucia preferred a law, *Ut si quis Latinus*, if any of the Latine associates could prove an action of bribery against a Senator, then should he be made a freeman of the City.

Quis Latinus.] Here we will observe with *e Sigonius*, that the Latine people were not alwayes called *Latini*, & *Italici: sed & socii*, & *Latini socii*, & *socii nominis Latini*; & *sociinomenq; Latinum*, & *socii ab nomine Latino*, & *socii ac Latinum dicti sunt.* e Sig. de jur. Ital. l. 1. c. 2.

Sylvani & Carbonis lex de peregrinis. Cic. pro Archia.

Sylvanus & Carbo being *Tribuni pleb* preferred a law, *Ut qui fœderatis civitatibus adscripti essent si tum, cum lex ferebatur, in Italia domicilium habuissent, ac sex aginta diebus apud Prætorem professi essent, cives Romani essent.*

Adscripti] For the right understanding hereof we must note, that there were *d* two sorts of Citizens; some *cives nati*, that is, Citizens by birth, others *civitate donati*, that is, Citizens by donation or gift; who because they were added unto, and registred with the first sort of Citizens, were thence called *Adscripti cives.* d F. Sylv. in orat. pro lege Manil.

Professi apud Prætorem.] This verb *profiteri* is sometimes *e Comitiale verbum*, and signifieth as much as *profiteri nomen*, that is, to render ones name unto a Magistrate; and this construction it beareth in this place. e P. Ramus in orat. Cic. Agr. 2.

Lex Cornelia de Municipiis. Cic. pro Dom.

L. *Cornelius Sylla* preferred a law, that all *Municipal* States should lose their freedom in the *Roman* City, and also their priviledge of having commons in the Roman-field.

Gellia Cornelia lex. Cic. pro Balb

L. *Gellius Publicola*, and *Cn. Cornelius Lentulus* being

Consuls, decreed a law, that all those private persons upon whom *Cn. Pompeius* in his wisdom should bestow the freedom of the Roman Citizens, should ever be accounted free Denisons.

CAP. 5.
De legibus ad Comitia spectantibus.

Ælia lex.

Cic multis in locis.

Q. *Ælius Petus* asked a law in time of his Consulship, *quoties cum populo ageretur*. that is, as often as any Roman Magistrate did assemble the people to give their voices, the *Augures* should observe signs and tokens in the firmament, and the Magistrate should have power *obnunciandi, & interdicendi*, that is, to gainsay and hinder their proceedings.

Ageretur cum populo] Here we may note the difference between these two phrases *Agere cum populo*, and *agere ad populum*; *f* He was said, *agere ad populum*, whosoever made any speech or Oration unto the people, and this might be done upon any day indifferently. But then only was it said *Agi cum populo*, when the people were assembled to the giving of their voices by a lawful Magistrate, and the people were demanded what their opinion was in the matter proposed: and this could not be done *g* but upon one of those dayes which they called *Dies Comitialis*.

f Agel. l 13. c. 14.

g Bersm. de ver. dier. ratione ad fin. Ovid. Fast. Cic. in suis orat. fæs.

Fusia lex.

Pub. Furius si ve Fusius Philus, being Consul, ordained a law, that upon some certain dayes, although they were *dies Fasti*, that is, Leet-dayes, yet no Magistrate should summon an assembly.

Clodia lex.

Cic. pro Sext.

P. Clodius Trib. pl. abrogated both those former laws, making it unlawful to observe signs and tokens in the heavens, upon those dayes when the Roman people were to be assembled. And secondly, making it lawfull to assemble

aſſemble the people upon any Leet-day whatſoever. Cic. 3. de leg

Gabinia lex.

At firſt, for many years the Roman people in their aſſemblies did ſuffrage *Viva voce*, at which time many of the inferiour ſort gave their voices contrary to their wills, fearing the diſpleaſure of thoſe that were of higher place. For the better help in this point, *Gabinius* asked a law, that the people in all their elections might not ſuffrage *Viva voce*, but by giving up certain tablets, the manner whereof hath been formerly ſhewn; whence both this, and all other laws tending to this purpoſe have been called *Leges tabellariæ.* Cic. in Læl.

Caſſia lex.

After *Gabinius*, *Caſſius* alſo preferred a law that both the Judges in their judgements, and the people in their aſſemblies ſhould ſuffrage by rendring ſuch tablets: *h* but this is to be underſtood only of thoſe aſſemblies by wards called *Comitia Tributi*: wherein they treated of mulcts and mercements. *h* Roſin ant. l. 8. c. 3.

Cœlia lex.

Cœlius Trib. pl. eſtabliſhed a law, that not only in mulcts and mercements, but alſo *In perduellionis judicio*, that is, in taintments of treaſons againſt any perſon of State, (namely ſuch as were *ſacroſancti*) or againſt the Common-weal, this *Tabellary* liberty ſhould have place, when the people ſhould judge thereof. Cic. 3. de leg.

In perduellionis jud.] *i* This word *perduellis* doth ſignifie an enemy unto the State, a traitor; and hence cometh this word *perduellio*, ſignifying not only the crime of treaſon, but the puniſhment alſo due thereunto, *k Si crimen quod erat graviſſimum inter crimina, nempe imminutiæ majeſtatis: ſi pœna, quæ erat acerbiſſima, nempe mortis.* *i* Cœl. Sec. Curio in orat. pro Mione. *k* Sig. de jud. l. 3. c. 3.

Papiria lex.

C. *Papirus Carbo Trib. pl.* perſwaded that not only in their elections, but in the propoſal of their laws alſo this ſuffraging by tablets ſhould be uſed. Cic. de leg. 3.

Sempronia lex.

Cic. multis in locis. *C. Sempronius Gracchus Trib. l.* preferred a law, that the Associates of *Latium* should have as great right of suffraging as the Roman Citizens.

Manilia lex.

Cic. pro Mur. *C. Manilius Trib. pl.* preferred a law, that all those who were *Libertini*, in what Tribe or Ward soever, should have the right of suffraging.

CAP. 6.

De Senatu & Senatoribus.

Claudia lex.

Cic. Verr. 7. *Q. Claudius Trib. pl.* perswaded a law, that no Senator or Senators father, should have any ship which should contain above three hundred of those measures called *Amphora*, deeming that sufficient for the transportation of their Corn from the Romans field. Secondly, by this law the Senators were forbidden the use of trading.

l Alex. Gen. dier. l. 2. c. 20. *Amphora*] *l Alexander Neopol.* observeth two sorts of these measures, namely, *Amphora Italica*, containing two *Urnas*, and *Amphora Attica*, containing three *Urnas*: every *Urna* containing two Gallons and a Pottle. This in probability is understood of the *Italian Amphora*.

Tullia lex.

Cic. Phil. 1. When as a custom had grown, that many of the Senators having by special favour obtained *Liberam legationem*, upon all occasions would abuse that their authority, procuring thereby their private gain, and the encrease of their own honour, then *M. Tullius Cic.* being Consul, laboured quite to take away these kinds of embassages, which though he could not effect, yet thus far he prevailed, that whereas in former times this *Libera legatio* being once obtained, was never (nor through a mans whole life) taken from him again: yet afterward

ward this authority ſhould never be granted to any, longer than the ſpace of one whole year.

Legatio Libera] We may obſerve in antient Authors, three ſeveral kinds of Embaſſages: The one, which is a meſſage ſent from the Prince or chief Governour of one Country unto another, and that is expreſſed commonly by this one word *Legatio*, without any addition thereunto; ſomtimes it is called *Legatio mandata*. The ſecond, which is when one purchaſeth the title of an Embaſſador, thereby the more honourably to perform ſome vow made, whence it was called *Legatio votiva*. The third is the office or title of an Embaſſador, granted upon ſpecial favour unto a Senator, that he might with the greater authority proſecute his private ſuits in law, or gather up his debts in that Province whither he went; this laſt was termed *Legatio Libera*. All three ſorts are briefly touched by *m Toxita*.

m M. Toxit. in orat. Phil. 1.

CAP. 7.
De Magiſtratibus.

L. *Cornelius Sylla* being Dictator, made a law, that all ſuch as would follow him in the Civil War, ſhould be capable of any office or magiſtracy before they came unto their full yeares. A ſecond part of this law was, that the children of ſuch as were *proſcripti*, ſhould be made uncapable of the Roman Magiſtracies. Cic. in Piſon.

Before they came to their full age] For L. *Villius* preferred a law, whereby he made ſuch as were under age, to be uncapable of City-preferments; and thoſe he accounted under age, who had not attained unto that number of yeares which he had preſcribed each ſeveral office: *n* and this law was termed *Lex annalis*. *n* P. Ramus in Agrar. 2.

Proſcripti were ſuch perſons as were baniſhed. For the fuller underſtanding look Proſcription in the tract of Punishments. *Julius Cæſar* did contrary to this law, *Admiſit ad honores & proſcriptorum liberos*. *Sueton. Jul.* 41.

Hircia-

Hircia lex.

Cic. Phil. 13. *A. Hircius* made a law, that all thoſe that followed *Pompey*, ſhould be made uncapable of all places of office.

Cornelia lex.

Cic. Phil. 2. *L. Cornelius Sylla* finding the *Prætores*, that is, the L. chief Juſtices not to give ſentence alwayes according to equity, yea ſometimes to go quite contrary to their own Edict, made a law, that every L. chief Juſtice ſhould adminiſter juſtice according to that his firſt Edict hanged up at the beginning of his office. An addition unto this law was, that the L. chief Juſtice ſhould not be abſent out of the City above ten dayes.

Clodia lex.

Cic. pro Sext. In former times it was lawful for either of the Cenſors to cenſure whom he pleaſed, and how he pleaſed, except his fellow-Cenſors did plainly gainſay it, and make oppoſition therein. But many abuſing this their authority, *P. Clodius Trib. pl.* made a law that the Cenſors ſhould not over-skip any in their election of Senators; neither ſhould they brand any with diſgrace, except ſuch as had been accuſed unto them, and been condemned by them both.

Valeria lex.

Cic. verrin. 4. The office of a Dictator at the firſt inſtitution continued but ſix months ſpace, until *L. Valerius Flaccus* being *Interrex*, in the vacancy of the Conſuls, preferred a law, that *L. Cornelius Sylla* ſhould be a perpetual Dictator.

Cornelia lex.

Cic. 3 de leg. *L Cornelius Sylla* in the time of his Dictatorſhip, did by vertue of a law preferred by him, clip the authority of the *Tribuni pl.* diſabling them of bearing any office after the expiration of their Tribuneſhip, taking away their authority of preferring laws, of uſing any ſolemn ſpeech, or publick oration unto the people, of hearing appeals, of hindring any Statute or Decree tending to the hurt of the populacy.

CAP.

CAP. 8.
De legibus.

Cæcilia Didia lex.

Q. *Cæcilius Metellus, & Titus Didius* being Conſuls, forbad that *Una rogatione*, that is, in one and the ſame bill many things ſhould be propoſed unto the people: leſt by that means, the people by granting the whole bill, might grant ſomething which they would not, or in denying the whole bill, might deny ſome particular clauſe, which by it ſelf they would have accepted. Moreover theſe two Conſuls ordained, that before a law ſhould be asked in the aſſemblies it ſhould be promulged, that is, hanged up to the publick view of the people three Market dayes. Cic. pro dom. ſua ad pontif.

Junia Lacinia lex de trinundino.

Junius Silanus, and *L. Licinius Murena* being Conſuls, eſtabliſhed that law of *Cæcilius* and *Didius*, annexing a more ſevere puniſhment for the breakers thereof. Cic. Phil. 5.

Clodia lex de interceſſione.

P. Clodius Trib. pleb. made a law, that the *Trib. pleb.* ſhould have full authority and power to propoſe laws: neither ſhould they be hindred by the *Interceſſion*, that is, gain-ſaying of any. Cic. pro Sext.

Licinia Æbutia lex.

Licinius and *Æbutius* being *Trib. pleb.* ordained, that if any preferred a law touching the overſight, the charge, or cure of any buſineſs in hand; neither he, nor any fellow-officer with him, nor any allied unto him, ſhould have this overſight or charge committed to him. Cic. pro dom. ſua ad pontif.

CAP. 9.
De Provinciis.

Sempronia de Provinciis.

C. *Sempronius Gracchus Trib. pleb.* ordained, that the Senate every year before the election of their Conſuls, ſhould Cic. de prov. conſularibus.

ſhould as it ſeemed beſt to them, appoint out what Provinces the Conſuls now to be elected, ſhould after the expiration of their office go unto; for which provinces afterward the Conſuls deſigned ſhould caſt lots. Another clauſe to this law was, that whereas in former times by a Decree from the Senate, it was lawful for the Tribunes to hinder the Roman aſſemblies, hence forward they ſhould have no authority.

Cornelia de Provinciis.

Cic. ep. 9. ad Lentul.

L. *Cornelius Sylla* being Dictator, preferred a law, that whoſoever went into a Province *cum imperio, tamdiu illud imperium retineret, quoad in urbem reverſus eſſet*: whereas in former times his rule and government was to be reſigned at the expiration of a ſet time appointed; yea although no ſucceſſor were ſent, yet could he not continue there *cum imperio* without a new commiſſion. A clauſe added unto this Law was, that after the coming of any new Preſident or Governour into the Province, the old Provincial Preſident ſhould depart within thirty dayes.

p Sig. de jure. Prov. l. 3. c. 13.

Eſſe cum imperio] that is, *p Exercitui præeſſe, q vel habere jus adminiſtrandi, & ſuis auſpiciis gerendi belli.*

q Sig. ejuſd. l. c. 6.

Titia lex de Provincia.

Cic. pro L. Mur.

Titius or (as ſome ſay) *Decius* preferred a law, that the Provincial treaſurers called *Quæſtores*, ſhould caſt lots for their Provinces: whence *Tully* in the Oration now quoted, inferreth, that although *Oſtia* being the better Province fell upon *Servius Sulpitius*, yet inaſmuch as it fell *Lege Titia*, that is by caſting lots, he could not therefore challenge any ſuperiority above *L. Murana ſed utriuſq, nomen conſedit in Quæſtura*, that is, their fame and renown was equal in their Queſtorſhip.

r Melanct. in orat. pro Mur.

Julia lex de Provinciis.

Cic Phil. 1.

C. Julius Cæſar eſtabliſhed two laws touching the Roman Provinces: one, that no *Prætor* ſhould govern a Province above twelve months; nor *Proconſul* above two years. The ſeveral heads or clauſes of his ſecond law could

could not all be found out, but those which have come to light are these: First, that *Achaia*, *Thessalia*, and all *Græcia* should be free; neither should any Roman Magistrate sit in judgement in those Provinces (*Cic. pro domo.*) Secondly, that the Provincial Governours and their *Comites*, that is, assistants or attendants, should have Hay, and all other necessaries provided them on the way, by those Towns and Villages through which they passed. (*Cic. in Pison.*) Thirdly, that the Provincial Magistrates at their departure should leave a Book of their Accounts in two Cities of their Province, and likewise should send a copy of their Accounts unto the Roman Treasure-house. (*Cic. in Pison.*) Fourthly, that it should neither be lawful for the people to bestow, nor for the Provincial Magistrate to receive *Aurum coronarium*, unless it were in a Triumph. (*Cic. in Pison.*) Lastly, that it should be unlawful for the Provincial Magistrate, with the allowance of the People or the Senate, to depart out of their Province, to lead forth any Army, to wage war, or to go into any forraign Country. (*Cic. in Pison.*)

Aurum Coron.] ſ There was a custom among the Romans in times of Victory, to present unto the Lord General Coronets of Gold, instead whereof the after ages presented a certain sum of money, which was thence called *Aurum coronarium*. ſ Lipſ. de Mag. Rom. l. 2. c. 5.

Vatinia de Provinciis.

P. Vatinius Trib. pleb. procured a Law, that *Julius Cæſar* should have the Government of *Gallia Ciſalpina* and *Illyricum* for five years space, without any Decree from the Senate, or casting Lots. Secondly, that they also should go as Legates, or Lord Deputies unto *Cæſar*, without any Decree from the Senate, whosoever were nominated in that Law. Thirdly, that *Cæſar* should receive money out of the common Treasure-house towards having an army. Lastly, that he should transplant a Colony unto a certain Town of *Ciſalpina Gallia*, called *Novocomum*. Cic. pro Balb.

Clodia de Provinciis.

Cic. pro domo. *P. Clodius* being *Trib. pleb.* procured a law, that the government of *Syria*, *Babylon*, and *Persia*, should be committed to *Gabinius*; the government of *Macedonia*, *Achaia*, *Thessalia*, *Grecia*, and all *Boetia*, should be committed unto *Piso*; and they should receive together with an Army, Money out of the common Treasury towards their journey.

Clodia altera de Cypro.

Cic. pro Sext. *P. Clodius* preferred another Law, that the Island *Cyprus* should be made a Province. That *Ptolomeus* the King of *Cyprus* sitting in his purple, with his Scepter and other his Princely Ornaments, *Præconi publico subjiceretur, & cum bonis omnibus cum publicaretur*, that is, should himself with all his goods be sold by a common Crier. That *M. Cato* being then Treasurer, *cum jure Prætorio, adjecto etiam Quæstore*, having by Commission the Office of a Lord chief Justice, and another Treasurer to accompany him, should be sent into the Island *Cyprus*, both to make sale of the Kings goods and estate, and also to bring back the money. Lastly, it was decreed by this Law, that those who lived in exilement at *Byzantium*, being condemned for some capital crime, should be brought back unto the City under the name of Romans.

Præconi publico subjiceretur;] For the better understanding of that phrase, we are to understand the manner of port-sale among the Romans; which we may read in *Sigonius* thus. Those things were rightly sold in port-sale, which were publickly sold *per Præconem sub hasta*, that is, by the Cryer under a spear sticked up for that purpose, and some Magistrate making good the sale by delivery of the goods. Whence I take *publico præconi subjici*, and *hastæ subjici*, to signifie one and the self-same thing, namely, to be set at sale: and *Cicero* useth almost the self-same phrase, *bona C. Pompeii, voci acerbissimæ subjecta præconis*. This kind of sale was termed *Auctio*: because, as *Sigonius* saith in the same place, to him the goods

Cic. Phil. 11.

goods were sold, *Qui plurimum rem augeret*, that is, which would bid most for it: and hence is the seller thereof termed *Auctor*, as *u Cic. Id quod à malo auctore emissent*, that is, that which they had bought of one which had no authority to sell: and from this custom of setting up a spear in this kind of sale, this word *Hasta* alone is used, to signifie Port-sale, as *x Hasta Cæsaris*, the sale of *Cesars* goods. Those who bought these goods, *y Tully* calleth *Sectores*, *z quia spem lucri sui sectabantur*. In such kind of sales, a Catalogue or Note of the goods to be sold was hanged up in Tables, for the publick view of Passengers; Whence such goods were termed *suspensa bona*. And if any friend would redeem the goods, then did he *dejicere libellos*, that is, put in bonds and security to answer the matter. The phrase is used by *Tully*, *Cic. pro Quintio*. And also by *Seneca*, *de benef. lib. 4. cap. 12. Suspensis amici bonis libellum dejicio, creditoribus ejus me obligaturus*. It is thus explained by *Turnebus*, *adv. lib. 12. cap. 9.* If the sale proceeded on, then such as proposed to be Chapmen, signified their desire by holding up their finger: whence *Digitum tollere* signifieth the desire of buying such goods. *Alex. ab Alex. lib. 4. cap. 26.*

u Verrin. 7.

x Cic. Phil. 8.

y Cic. in Ver.

z Cic. de jud. l. 2. c. 24.

CAP. 10.
De Legibus Agrariis.

THose Laws were termed *Leges Agrariæ*, which did concern the division of the publick, or common fields: And these were either given by *Romulus* and other Kings, or taken from the enemies, or from private men which had made inclosures: or lastly, bought out of the common Treasury, *a Vide Sigon.*

a Sig. de jur. Ital l. 2. c. 2.

Sempronia lex Agraria.

b Titus Sempronius Gracchus Trib. Pl. preferred a law, which forbade that any of the *Romans* should have to his own part above five hundred Acres of the common fields, the one half of which it was lawful for his son to enjoy.

b Cic. pro Sext.

joy. If it had ſo happened, that any ſhould enlarge theſe common fields, three ſurveyors called the *Triumviri agro dividendo*, did mark out which was common, which private ground. Moreover it was by this Law provided, that the memory of King *Attalus*, who made the people of *Rome* his heir, might be beſtowed upon thoſe Citizens, which had by this Law obtained a part of the common fields, to the buying of inſtruments for husbandry. Moreover that the Kings lands ſhould be farmed out at a ſet rent by the Cenſors, whence an yearly tribute ſhould be paid to the people.

[e] Sig. de jur. Ital. l. 2. c. 2.

Cornelia lex.

L. Cornelius Sylla being Dictator, preferred a law, that all the fields of thoſe Romans which he had baniſhed ſhould be common. This publication is to be underſtood chiefly of thoſe fields in *Thuſcia*, near unto the City *Volaterra*, and the City *Feſula*, which grounds *Sylla* divided amongſt his ſouldiers.

Cic. in Rul.

CAP. 11.

De frumentariis Legibus.

Sempronia Lex.

T. Sempronius Gracchus being Tribune of the Commons, provided that a certain quantity of Corn ſhould monthly be given unto the poorer ſort at a low price, *Semiſſe & Triente*: that is, about ſix pence farthing a buſhel: Hereupon was there a place appointed in *Rome*, for the keeping of this common Corn, together with certain laws hanged up there called *leges frumentariæ*. This place was called [c] *Horrea Sempronia*. The quantity of Corn laid up in every City for this purpoſe is by the latter Lawyers termed *Canon*; as *Canon Alexandrinus*, *Canon urbis Romæ*, *&c. Vide Stuck. de conviv. lib. 1. cap. 35.*

Cic. pro Sext.

[c] Roſin. ant. l. 8. c. 21.

Semiſſe & Triente.] It appeareth by the next Law that *ſemiſſis* in this place muſt ſignifie the ſame as *ſenis aris* doth there: Whereby we may note, that *ſemiſſis* doth not alwayes ſignifie the half part of the *Roman* coyn called *As*,

As, but sometimes it signifieth a great coyn, valuing almost our six pence.

Clodia lex.

P. Clodius Trib. pl. ordained that that Corn which heretofore was sold to the poor *senis æris & trientibus in singulos modios*, that is, for six pence farthing a bushel, should hereafter be given *gratis*; the charge and oversight of this dole was committed to *Sext. Claudius*. Cic. pro Sext. in Pison.

Terentia Cassia.

M. Terentius and *C. Cassius* being Consuls preferred a Law, *Uti alteræ decumæ à Provincus cœmerentur, pretio in singulos modios* H. S. *trium constituto: Item ut civitatibus æqualiter imperaretur, pretio in singulos modios* H. S. *quatuor constituto.* Cic. Verrin. 5. & 7.

For the better understanding of this law, we must note [d] a threefold Tythe paid by the Provinces. The first was the tenth part of the grain growing in the Province to be paid in *gratis*, and that was properly called *Decumæ*, or *frumentum Decumanum*, and those that took this Tythe to Rent, were called thence *Decumani*. A second sort of Tythes was a certain quantity of Corn taken up for the L. President or chief Governour of the Province, to keep his house, and that was called *Frumentum æstimatum*, that is, Corn gathered up by the way of Taxation: for so this word *Æstimo* coming from *æs* doth signifie, [e] *Est autem æstimare ab ære dictum, id quod vulgo dicunt appreciare & taxare.* The third sort of Tythes, was when the Senate finding scarcity of Corn in *Rome*, did enjoyn the Provinces to sell them a quantity of Corn at a price set down by the Senators themselves; and this Corn sold upon injunction, if it was paid but once in the year, it was termed *Frumentum emptum*; but if in the same year a second sale was enjoyned them, then they called that second pay, *Frumentum imperatum*. In the first clause of this law by [*alteræ decumæ*] is meant *Frumentum emptum*: in the second clause, by these words [*civitatibus æqualiter imperaretur*] is understood *Frumentum imperatum*.

[d] Sig. de jur. prov. l. 1. c. 1.

[e] F. Sylv. in orat pro Cluentio.

Lex

Lex Hieronica.

Cic. Verr. 4. *Hiero* King of *Sicily* obtained a Law, wherein was set down the quantity of Corn that the *Aratores* or country Farmers should pay unto the *Publicani*, that is, those which received the Tythes, together with the time of payment, and the price agreed upon.

CAP. 12.

De legibus sumptuariis sive Cibariis.

IN antient times there was a commendable frugality among the Romans in their feasts, but after ages grew to immoderate excess therein; so that whole Goats and Boars, *&c.* were set on the Table at one time. Such a hog thus dressed *Cincius* was wont to call *a Porcum Trojanum*, alluding to the *Trojan* horse; because the belly thereof was stuffed with variety of Fowl and Rabbets, and such like, as the *Trojan* horse was with armed men. This kind of excess *Tiberius Cæsar* laboured to redress, by serving at his Table cold half-eaten dishes at solemn Feasts, using this proverb, *Dimidiatus aper omnia eadem habet quæ totus.* Hence also men of severe discipline enacted Laws termed *Leges sumptuariæ*, or *Cibariæ*, which prescribed a moderation, not only for the charges in their greatest Feasts, that they should not exceed such and such sums of money, but also for the guests to be invited, that they should not exceed such a number. The chief of these Laws were these that follow.

a Stuck. de conviv. l. 3. c. 3

b Suet. Tib. 34.

Lex Orchia.

C. Orchius being Protector of the Commons, by the consent of the Senate, the third year before *Cato* was Censor, preferred a Law, whereby he onely moderated the number of guests, without any limitation of the charges or superfluous expence at Feasts.

Lex Fannia.

Twenty two years after *Orchius* his Law, *C. Fannius* being Consul enacted another for the moderating of expences,

pences, allowing *non plures denis assibus* to be spent in their ordinary Feasts: But upon those more solemn Feasts dedicated unto *Saturn*, and from thence called *Saturnalia*: likewise when any publick Games were exhibited by the Roman people, he then allowed *Centum asses*, ordaining that no other fowl should then be dressed but onely one Hen, and that not fatted for the purpose.

Non plures denis assibus] The Roman coyn *As* was so called *c quasi æs*, because the matter thereof was *brass*; *d* at first it consisted of a full pound weight; afterward in the first *Punick* war, by reason of the scarcity of money, they made of every pound of brass six of those coyns, each valuing as much as they did at first. In the second *Punick* war there were twelve made of every pound: at last by vertue of a Law which *Papirius* enacted, four and twenty were made of a pound: and so they continued; the value always remained the same, *videl.* ob. q. so that to allow but ten of these to a Feast, seemeth a matter altogether uncredible; but consider with the frugality, the cheapness of those times, it may be granted for a truth; *e* for ten of these were the price of the sheep, and an hundred the price of one Ox.

c Varro. l. 4. de ling. Lat.
d Plin. 35. c. 4.
e A. Gel. 11. c. 2.

Lex Didia.

Eighteen years after *Fannius*, *Didius* ordained that the former sumptuary Laws should be of force, not onely in *Rome*, but throughout *Italy*; Moreover that not onely the Feast-master transgressing, but all the guests, should be liable to the penalty.

Lex Licinia.

P. *Licinius Crassus* preferred a law in manner agreeing with the *lex Fannia*, whereby he rather confirmed *Fannius* his Law being now antiquated, then made a new.

Lex Cornelia.

Cornelius Sylla being Dictator, ordained a Law for the price of meats, so that he was thought by cheapness of victuals to encrease rather then to restrain superfluities at feasts.

Lex

Lex Antia.

Antius Reſtio preferred an uſeful law to moderate expences in feaſting, which notwithſtanding was violated, and in a manner abrogated by the contrary practice of the Citizens in general. For which cauſe, *Reſtio* afterward being invited, would never come to any feaſt, becauſe he would not be an eye-witneſs of the contempt of that Law which himſelf had cauſed. If any deſire to ſee more laws of this nature, let him read *Stuc. conviv. lib.* 1. *c.* 3. *Aul. Gel. l.* 2. *c.* 24. And *Macrob. Saturn. l.* 3. *c.* 17.

CAP. 13.

De re militari & bellis.

Gabinia lex.

Cic. pro leg. Manilia.

A. *Gabinius Trib. pl.* preferred a law, that the managing of the war againſt the Pirates ſhould be in ſuch manner committed unto *Pompey* for three years ſpace, that over the whole Sea between *Hercules* his Pillars, and in the Maritime Provinces unto the four hundredth *Stadium* from the Sea, he ſhould have power to command any Kings, Lord Preſidents, or whole Corporations to furniſh him with all things neceſſary to that war.

Manilia lex.

Cic. pro leg. Manilia.

C. Manilius Trib. pl. perſwaded a law, that the managing of war againſt *Mithridates* ſhould be committed unto *Cn. Pompeius*: That the whole Province where *L. Lucullus* ruled, together with his whole Army, ſhould be reſigned up unto him: Moreover, that *Bithynia* where *Glabrio* ruled ſhould be added, together with all thoſe bands and forces which he had upon the Sea againſt the Pirates, and all thoſe Provinces over which the Law *Gabinia* did entitle him Governour, as *Phrygia*, *Licaonia*, *Galatia*, *Cappadocia*, *Cicilia*, *Colchis ſuperior*, and *Armenia*.

CAP.

CAP. 14.
De Tutelis.

THis word *Tutela* doth ſignifie a wardſhip, guardianſhip, or protection of a child in his nonage: whereof *f Camerarius* obſerveth four ſorts, and we may with *Pellitarius* add the fifth. Either the overſeers were appointed by will; or elſe the next of the kin were overſeers; or the Magiſtrate did appoint whom he thought fit: and theſe three ſorts *g Omphalius* calleth thus: the firſt *Teſtamentariam*, the ſecond *Legitimam*, the third *Dativam*. The fourth ſort *Camerarius* calleth *Tutelam fiduciariam, quæ eorum eſt, qui emancipati deſiiſſent eſſe agnati.* The fifth *h Pellitarius* calleth *Tutelam honorariam*, namely, when as the office of adminiſtration is committed to others, but yet certain chief overſeers were appointed to ſee the will performed, who were called *Tutores honorarii.* *i* Where we muſt note, that the law provided overſeers, not for children under age only, but for women alſo.

f I. Camer. in orat pro L. Flacco.

g I. Omphal. in orat. pro Cæcina.

h Pellitarius pro Cæcin.

i Cic. pro Mur.

Emancipati deſiiſſent eſſe agnati] By the Romans law every ſon was much in ſubjection unto his father, that before he could be releaſed of this ſubjection, and made free, he ſhould by an imaginary ſale *k* be ſold three times by his natural father to another man, who was termed by the lawyers *l Pater fiduciarius*, that is a father in truſt: yea, and be bought again by the natural father, and ſo manumiſſed by him, and then he became free. The form of this kind of ſale or alienation, is ſet down more at large in the explanation of one of the laws that followeth, with an example not much unlike this. This imaginary ſale was called *Mancipatio*; the children thus alienated from the father were termed *Emancipati*; this form of ſetting free was termed *Emancipatio.* This *Fiduciaria tutela* then, in my opinion was thus; That when any goods did fall unto a child thus

k Vid leg. 12. tabul.

l S. g. de jur. Rom. l. 1. c. 10.

alienated, by the death of his father, then ſhould not the overſight of this child fall unto the next of the kin, termed *agnati*, but *Quoniam de ſuit eſſe agnatus*, that is, becauſe he had in a manner loſt his alliance with his kindred, therefore ſhould the overſight of the child belong unto the father in truſt, termed *Pater fiduciarius*, whence the guardianſhip it ſelf was called *Tutela fiduciaria*.

Lætoria lex.

Cic. de offic. This law made by *Lætorius*, provided that there ſhould be overſeers appointed for thoſe which were diſtracted, or did prodigally waſt their patrimony. For as it appeareth by the common adage, *Ad Agnatos & Gentiles deducendus eſt*, they did account all prodigals mad men: they meaning no more by that, than we do by our Engliſh proverb, whence we ſay of a Spend-thrift, let him be begg'd for a fool. The reaſon of their adage was, becauſe if any were diſtracted, by the Roman law his wardſhip fell *Ad Agnatos & Gentiles*, that is, to the next of the kindred.

CAP. 15.
De Teſtamentis.

BEfore we deſcend unto the laws themſelves, we will explain thoſe three divers ſorts of Wills in uſe amongſt the Romans; namely, *Teſtamentum calatis comitiis*: which was ſo called, becauſe twice in the year in time of peace the Roman people aſſembled themſelves together, to this end and purpoſe, that if any would make his will, the whole people might bear witneſs thereunto: Theſe aſſemblies were termed *Calata comitia*. Secondly, *Teſtamentum in procinctu*, that is, when a ſouldier in time of war, ready to give battle, did call out three or four of his fellows, and in the audience of them did by word of mouth pronounce his laſt will and teſtament. Thirdly, *Teſtamentum per emancipationem familiæ*, that is, by making over his goods and poſſeſſions under

a

a feigned form of ſale, unto a ſecond party, called *Hæres fiduciarius & imaginarius*, i. e. an heir in truſt, who ſhould afterward reſign them unto the true and lawful heir: and this imaginary kind of ſale was performed with certain ſolemnities *circa æs & libram*, and alſo the ſale it ſelf was ſometimes called *Nexus*, as likewiſe *Emancipatio*. Hence was the will ſometimes called *Teſtamentum per æs & libram*, ſometimes *Teſtamentum per nexum*. For the proof of this which hath been delivered, touching the three ſorts of wills, I will refer the Reader to *m Sigonius*.

m Sig. de jur. Rom. l. 1. c. 12 Cic. vert. 3.

Furia lex.

C. Furius Trib. pleb. made a law, that it ſhould not be lawful for any to give away in a way of legacy unto any, except to the kinſmen of him which manumiſed him, or ſome other certain perſons, *ſupra mille aſſes*, that is, above fifty ſhillings or thereabout, there going two *Aſſes & ſemis* to the making of one *Seſtertius*.

Voconia lex.

Q. Voconius Saxa Trib. pl. tulit legem, Ne qui cenſus eſſet, virginem neve mulierem ſupra quadrantem ſuorum bonorum hæredem inſtitueret, pluſve cuiquam legaret, quam ad hæredem, hæredeſve perveniret. Cic. Vert. 3.

Cenſus.] This word *Cenſus* doth ſometimes ſignifie all ſuch as have tendred the juſt valuation of their eſtate unto the Cenſors: and then *Incenſus* is oppoſite unto it; ſignifying ſuch an one as hath not rendred his eſtate or name to be regiſtred by the Cenſors. But in this place *Cenſus* is taken for ſuch a rich man whoſe eſtate was in the *Cenſors* book valued at one hundred thouſand *Seſterces*. (*Vid. Aſconium in Verrem.* 3.)

Supra quadrantem ſuorum bonorum.] That is, no woman ſhould be heir to more than one quarter of ſuch a rich mans goods. For the right conceiving of this, we muſt note with *n Latomus*, that the whole inheritance (were it never ſo great) was termed *As*, and that was divided into twelve parts, which the lawyers called *Unciæ*: *n* Bart. Lat. in orat. pro Cæcinna.

Duæ unciæ dicebantur Sextans, tres Quadrans, quatuor Triens, quinq; Quincunx, sex Semissis, septem Septunx, octo Bessis, novem Dodrans, decem Dicunx, undecem Deunx, Totum As, ut dictum est. Again, every *Uncia* was divided into six parts called *Sextulæ*: *Duæ sextulæ Duellam, tres Semuncium faciunt.* So then according to the lawyers (as *o Alexander* observeth) if there were one heir alone instituted, he was termed *Hæres in Assem totum institutus*: if otherwise there were many co-heirs, then was it according as the Testator did appoint. Some were *ex Deunce hæredes*, that is, heirs to eleven parts of his goods, there being but one part bestowed from him: some were *hæredes ex quadrante*, that is, heirs to one quarter of his goods: others were *hæredes ex semuncia*, that is, they had the four and twentieth part: others were *sextula aspersi*, that is, they had the threescore and twelfth part of the whole *As*, that is, of the whole inheritance, be it more or less, *&c.* Here we must understand that there is great difference between these two phrases, *Institui hæres in totum Assem, & ex toto Asse.* For all those which were nominated *Hæredes*, whether it were *ex Dodrante, Quadrante, vel Semuncia*, or howsoever, yet were they termed *Hæredes ex toto Asse*, that is, they were not *Legatarii*, such as received legacies. Now none can be said *In totum Assem institui*, but he which is the alone and sole heir unto the whole.

o Alex. Gen. dier. l. 1. c. 1.

CAP. 16.
De usu-capione.

Atinia lex.

Cic. Ver. 3.

A Tinius made a law, that the plea of prescription or long possession, should not avail in things that had been stoln, but the interest which the right owner had in those stoln goods, should remain perpetual. The words of the law are these: *Quod surreptum est, ejus rei aterna auctoritas esset.* Whereby *p auctoritas* is meant *jus dominii*,

p Sig. de jur. Rom. l. 1. c. 11.

dominii. This crime of theft, as likewiſe of uſury, was ſo odious unto the Romans, that whoſoever was found guilty thereof, was condemned *q Lege quadrupli*, that is, to pay four times as much: whence the informers againſt ſuch were termed *Quadruplatores.* q F. Sylv. in Verrem. 1.

CAP. 17.
De Judicibus, & Judiciis.

Lex accuſatoria.

TUlly mentioneth a law termed *Lex accuſatoria*, which in truth was no law, neither was there any Author thereof: but there was ſuch a received cuſtome amongſt the Romans, that the accuſer ſhould object againſt the party accuſed, not only the preſent crime then queſtioned, but all other ſcapes and faults committed long before, to the bettering of his matter: that at length this accuſatory cuſtome became in manner of a law, and ſo was called *Lex accuſatoria.* Vid. *Franc. Sylv. in orat. pro Mur.* Cic. pro Mur.

r Their cuſtome alſo was to procure others to joyn with them in their accuſations; thoſe *ſ Tully* calleth *Subſcriptores*, becauſe they did ſubſcribe unto the accuſation. r Alex. Gendier. l. 3. c. 5. ſ Cic. pro Mur.

Lex Servilia & Sempronia.

Whereas *Sempronius* had preferred a law, whereby he took away the authority of ſitting in Judgement from the Senators, and appropriated it to the Roman Gentlemen; *Q. Servilius Capio* being Conſul did afterward prefer another law, whereby the adminiſtration of judgement was divided between the Senators and the Gentlemen. Curio in orat. pro Scaurc.

Rupilia lex.

Rupilia lex vetabat diebus triginta ſortiri dicam.] Here we muſt note with *t Sigonius*, that this law was of force only in the Province of *Sicilia*: alſo that it is one thing *ſcribere dicam*, that is, to enter an action: another *ſortiri dicam*, that is, by lots to chooſe the Judges, which was thirty days after. Cic. in Ver. t Sig. de jur. prov. l. 2. c. 5.

Livia

Livia lex.

Cic. de orat. l. 3. Though by vertue of *Servilius* his law, the Senators were made capable of the office of a Judge, yet they were not thereby equally capable with the Roman Gentlemen: and therefore did *M. Livius Druſus* ordain, that the Judges ſhould be elected equally out of both Orders, namely, three hundred of the Senate, and three hundred out of the Gentry.

Plantia lex.

Cic. pro Cornel. *M. Plautius Sylvanus* preferred a law, that the number of Judges ſhould be choſen, not only out of the Roman Senators and Gentlemen, but out of the Populacy alſo, namely, out of every Tribe fifteen Judges.

Aurelia lex.

Cic. in Verr. ſæpe. *L. Aurelius Cotta* being *Prætor* made a law, that the Judges ſhould be choſen out of the Senators, the Gentlemen, and thoſe Martial treaſurers or Clerks of the Band called *Tribuni ærarii.*

Pompeia lex.

Cic. in Piſon. *Cn. Pompeius Magnus* being Conſul ordained that the Judges ſhould be elected out of the wealthieſt Centuries, tying the election notwithſtanding to thoſe three degrees of people, namely, Senators, Gentlemen, and Martial Treaſurers; alſo he addeth that the number of Judges to examine cauſes ſhould be ſeventy and five.

Julia lex.

Cic. Phil. 1. *C. Julius Cæſar* ordained that the election of Judges ſhould be out of the Senators and Gentlemen, only leaving out the Martial treaſurers; and this *Tully* calleth

Cic. Phil. 1. & 5. *legem Judiciariam Cæſaris.*

Antonia lex.

M. Antonius tulit legem, ut tertia Judicum decuria è Centurionibus, Anteſignanis, Alaudis, Manipularibus fieret.

Judicium decuriæ:] When the L. chief Juſtice had taken his oath, he choſe out ſome *ex certis ordinibus, non ex omni populo*, that is, out of ſuch degree and place as the law required, to ſit in judgement on thoſe caſes which were

were termed *cauſæ publicæ*: and theſe Judges he afterward divided into leſſer numbers called *Decuriæ*. *Vid. Sig. de jur. Rom. l. 2. c. 12.*

E Centurionibus.] *Centuriones* were Captains over an hundred footmen.

Anteſignanis.] This word *Anteſignanus* hath a double acception in the Roman hiſtories. Sometimes *Anteſignani* do ſignifie the third part of the Roman Army: for all thoſe ſouldiers that fought before the banners or enſigns, as they were called *Haſtati* in reſpect of their weapon, ſo were they called *Anteſignani* in reſpect of their enſigns before which they fought. The ſecond part of the Army, as they were called *Principes* in reſpect of their proweſs and valour, ſo were they called *Subſignani*, as fighting under the enſigns. The third part, as they were called *Triarii*, becauſe they fought in the third or rereward, ſo were they called *Poſtſignani*, as fighting behind the enſigns. Where we muſt not think, that thoſe which were called *Anteſignani* and *Subſignani*, were altogether deſtitute of enſigns among themſelves: (for every Maniple had his enſign) but the Eagle and other chief enſigns were carried by the *Subſignani*, and in reſpect had to them they had their names. And hence ariſeth the ſecond acception of this word, namely, that all thoſe ſouldiers of every Maniple, which ſtood in a front before their enſign were called *Anteſignani*, and thoſe were commonly the beſt ſouldiers in the company. See for the ſeveral proofs of this, *Liſp. milit. Rom. l. 2. dial. 3.*

Alaudis.] *Jul. Cæſar* preſſed a legion of ſouldiers out of *Gallia Tranſalpina*, all which afterward he made free of *Rome*. This legion he called *Legionem Alaudarum*, from the form of their helmets, which did reſemble the head of the Lark, called in French *Alauda*. *Barthol. Latomus in Phil. 1.*

Manipularibus.] Thoſe Captains which governed a Maniple of ſouldiers, were called *Manipulares*. *Fr. Matrantius in Phil. 1.*

Lex

Lex Cincia de donis & muneribus.

M. Cincius being Protector of the Commons, *M. Cornelius Cethegus* and *P. Sempronius Tuditanus* being Conſuls, preferred a law, that no man ſhould receive a gift or bribe from his Client for pleading his cauſe. Of this we read in *Plautus*, and he calleth it *Legem muneralem*: alſo in *Tully de Senect.*

Cornelia lex.

Cic. pro Cluentio. *L Cornelius Sylla* preferred a law, that the chief Judge of the bench called *Judex Queſtiones*, ſhould refer it unto the choice of the defendant, whether he would have judgement paſſed on him *Clam an Palam*, that is, (as *Sylvius* obſerveth) either by voices or by tables.

Memnonia lex.

Cic. in Ver. This law (made by *Memnius*) provided, that no action ſhould be entred againſt thoſe who were imployed abroad in buſineſs for the Common-wealth. An addition unto this law was, that whoſoever ſhould *calumniari*, that is, forge an accuſation againſt another, a certain letter ſhould be burnt in his forehead in token of infamy. This law is ſometimes called *Lex Rhemnia*. Here we may with *u Fr. Silvius* obſerve the difference of theſe three phraſes *Calumniari, Prævaricari & Tergiverſari*. He which doth in his accuſation forge faults never committed, is ſaid *Calumniari*. He which undertaketh ones ſuit, and either will not urge reaſons in the behalf of his Client, or anſwer the objections of his adverſary when he is able, is ſaid *Prævaricari*, that is, to play the falſe Proctor. He which doth deſiſt in his accuſation and let his ſuit fall, is ſaid *Tergiverſari*.

Cic. pro Sext. Roſcio.

u F. Sylv. in orat. pro Cluentio.

Lex incerta de Nexu.

Cic. pro Mur. *In iis rebus quæ mancipi ſunt, in periculis judicii præſtare debet, qui ſenexu obligavit*, that is, if the buyer of any thing in that form of ſale called *Nexus*, be troubled in law, the ſeller thereof muſt ſecure him, and ſave him harmleſs.

x F. Sylv. in orar. pro Mur. *Mancipi ſunt*]x Thoſe things were termed *res Mancipi*, which were alienated from the ſeller *Nexu*, that is, by ſuch

ſuch a form of ſale as followeth. The form was thus: At the leaſt five Witneſſes, all Roman Citizens, and of full age, beſides one called *Libri-pens* (from holding of a pair of ballances) ſhould be preſent, and the chapman or buyer ſhould come with a certain braſs coyn in his hand, and ſay, (for example ſake, if it were a bond-ſlave to be ſold) *Hunc ego hominem ex jure Quiritium meum eſſe aio, iſq; mihi emptus eſt hoc are*, and forthwith ſtriking the ballance with the braſs coyn, he gave it to him that made the ſale. This kind of chaffering was termed *Nexus*, as we may ſuppoſe *à nectendo*, becauſe it did bind the ſeller to make good the ſale: *y* ſometimes it is called *Per æs & libram venditio*, becauſe of the ceremonies uſed in it. *z* Now it is commonly called *Mancipatio* a *à manus capione*, from taking that which is ſold into ones hands or poſſeſſion: whence the word *c Mancipatur*, and *Mancipium* are uſed to ſignifie a bond-ſlave that is in this manner ſold, though ſometimes *Mancipium* doth ſignifie the ſale it ſelf, whence *Cic.* uſeth this phraſe, *Lex Mancipii*, to ſignifie a clauſe or condition put in the ſale. All things ſold after this manner were termed *Res Mancipi*; *b* the word *Mancipi* being a noun undeclinable, as *Frugi*, *Cordi*, *Hujuſmodi*, &c. and from this form of ſale, the mortgaging of land for the payment of money may ſeem to be called *Mancipatio fiduciaria*; He which did thus receive the mortgage, or land in way of ſecurity, is ſaid *accipere fiduciam. Cic. orat. pro L. Flacco.* Upon which place ſaith *Lambinus*, in his annotations, *Accipere fiduciam, eſt fundum, aut aliam rem ſoli ſeu ut apellant immobilem, ab aliquo mancipare, ſeu accipere ea lege ut cum ille repetat ei remancipet.* We may conject the reaſon of theſe ballances, why they ſhould be uſed in this kind of bargaining, to be, becauſe in old time they did not bargain by paying coyned money, which was termed *Æs ſignatum*, but by paying a certain weight of money; whence ſuch money was termed *Æs grave*; and hence it is that metaphorically we tranſlate *pendo* and *rependo* to pay and repay.

y Sylv. ibid.

z Melanct. in orat. pro Mur.

a Camerar in orat pro Mur.

b Priſcian. lib. 3. vid. Fr. Sylv. in orat. pro Mur.

Alex. Gen. dier. l. 1. c. 15.

CAP. 18.

De Majestate.

Lex Varia.

Cic. pro Cornel. *Q. Varius Trib. pl.* made a Law, that the *Prætores Quæsitores* should sit in judgement upon those, by whom the Allies or Associates had been moved to attempt war against the *Roman* people.

Julia Lex.

Cic. Phil. 1. *C. Jul. Cæsar* ordained, that such as were condemned of treason, or causing uproars in the Common-wealth, should be banished.

CAP. 19.

De Ambitu.

THose laws were termed *Leges de Ambitu*, which were made against indirect or unlawful courses used in canvasses for offices.

Fabia de ambitu.

This *Lex Fabia* restrained the number of those poor men, who because they were wont to follow up and down, and all the day to attend such as did stand for offices, were thence called *Sectatores*.

Acilia Calpurnia.

Cic. pro Mur. *M. Acilius Glabrio*, and *C. Calpurnius Piso* being Consuls, made a law, that such as were convinced of sinister and undirect means used in their canvasses, should be fined at a certain sum of money set on their heads, and they should be made both uncapable of bearing offices and uneligible into a *Senatori* place.

Senatus consultum de Ambitu.

Cic. pro Mur. *M. Tullius Cic.* and *C. Antonius* being Consuls, a certain decree was made by the *Senate*, that if such as did either salute or attend upon those which stood for offices, were hired by any manner of reward, or if any publick prizes were occasioned to be plaid; or any pub-

lick

lick feasts made by them, they should be liable to the censure of *Calpurnius* his Law.

Tullia lex.

M. Tullius Cic. made a law, that no man standing for an office should cause any publick prize to be plaid, within two years that he either had stood, or should stand for an office, unless the day had formerly been appointed by some will. *Item*, he ordained, that *Senators* being found to have used unlawful means for the attaining of any office, should suffer ten years exilement. And the Commonalty offending in that point, should be punished with an heavier punishment then the law made by *Calpurnius* laid on them. An addition unto this was, that if any being cited to his answer in the Court of their undirect means, *Si morbum excusaret*, that is, If he did urge his sickness for his not appearance, then should he undergo a penalty. Cic. pro Sext.

Si morbum excusaret.] So that *Tully* here seemeth to cut off that liberty, which the twelve tables permitted in these words, *Si judex aliterve ex litigatoribus, morbo sonticoimpediatur, judicii dies diffissus esto.*]*i. e.* If either Judge, Plaintiff or Defendant were sick, they should *diffindere diem, id est, & proferre & in aliud tempus rejicere*, prorogue the time of judgement. And unless some might think that by *morbus sonticus* was meant some strange disease, *Sigonius* inferreth, that every disease is termed *Sonticus*, which hindreth us in the performance of our business. *Sontes enim nocentes dicunt.* dS'g. de jud. l.1.c.28.

Licinia de Sodalitiis.

M. Licinius Crassus being Consul, perswaded, *ut in Sodalitiis Judices sub accusatore ex tribubus ederentur.* Cic. pro Plancio.

Sodalitia.] In the latter times the *Romans* in their canvasses would gather together a certain company of their side or faction to follow them, terming them *Sodalitia*, and these *Sodales* would, as it were, by violence force the people to suffrage with them, whence the violence offered by them was termed *Sodalitia*, *Sig. de Jud. lib. 2. c. 16.*

Judices ab accuſatore edcreuntur ex tribubus.] We may read of three ſorts of Judges among the *Romans*, or rather of three divers kinds of elections of their Judges. For either they were, *Lecti ſortitione*, or which more may be ſeen in one of the laws following, or *Editione*, by nomination or naming them, the manner thereof being thus; That either the Plaintiffe ſhould chooſe them all, and then were they called *Judices edititii*, or the Plaintiffe ſhould chooſe one half, and the Defendant the other, and then were they called *Judices alterni*. *Melanthon in Cic. pro Muran.*

CAP. 20.
De pecuniis repetundis.

FIrſt touching the word *Repetunda Sigonius* ſaith that ſuch money tearmed *Pecuniæ repetundæ quæ poſſent repeti*, which might by the courſe of law be recovered. Namely, ſuch money as any Magiſtrate, Judge, or publike Officer, did either in the Provinces, or in the City receive as a bribe, from the Allies and Aſſociates, or from the *Roman* Citizens for the adminiſtration of Juſtice, or the execution of any publick duty: and this kind of bribe they tearmed *Pecunias repetundas, pecuniam ablatam, captam, coactam, conciliatam, averſam* (*Cic. in Verinis*) But as it ſeemeth very probable theſe laws againſt bribery were firſt occaſioned, for the eaſe and relief of the *Roman* Provinces and Allies, called in Latine *Socii*, who were much abuſed in this kind by the Prov. *Conſuls*, *Prætors*, and *Quæſtors*, &c. Whence *Tully* called this law againſt bribery, *Legem Socialem*. Here alſo may we note, *d Tully* uſeth this phraſe, *Pecuniam occupare*, for *Fœnerari*, to put money to uſe. *Occupare pecuniam eſt collocare, inquit Nonius, id eſt, Fœneri dare. Vid. Lambin annot. in Cic. orat. pro L. Flacco.*

d Cic. in orat. pro. L. Flacco.

Junia lex.

M. Junius Pennus Trib. Pl. preferred a law that no ſuch as were convinced of bribery, *Prætor litis æſtimationem exilium etiam damnato eſſet irrogatum.*

Livius

Litis æſtimationem.] Here we will conſider the difference of three phraſes, *Litis conteſtatio, Litis redemptio, & Litis æſtimatio.* e The firſt ſignifieth the producing of witneſſes when both ſides ſhall openly in the Court uſe the form of words, *Teſtes eſtote:* which was not done, *antequàm ſatisdationes factæ eſſent,* before Sureties were put in, by the one, that he ſhould *Judicatum ſolvere,* pay that which he was condemned: by the other, that he would *rem ratam habere,* that is, ſtand to the Verdict or Sentence in the Court. The ſecond phraſe ſignifieth a compoſition or an argument agreed upon by both ſides between themſelves: f *Redimere lites eſt pactionem facere; qui enim paciſcitur, facit ut lis non ſit.* The third is when the party which is caſt in the Suit is adjudged to pay the money, or the worth of the goods called in queſtion, together with the coſt and damages in law unto his adverſary. g *Litem æſtimare eſt pecuniam, de qualis fuit, & propter quam condemnatus eſt rem, in ſummam redigere, quæ de bonis ejus redigatur.* h And *Æſtimare litem eſt, quod vulgò dicitur, Taxare litis expenſas.*

e Sig. de jud. l. 1. c. 27.

f Fr. Sylv. in orat. pro Q. Roſcio.

g Fr. Sylv. in orat. pro Cluentio.

h I. Tiſſin. in orat. pro Rabitio.

Acilia lex.

M. Acilius Glabrio made a law, that ſuch as were accuſed of bribery, *Neque ampliari, neque comperendinari poſſent,* that is, they muſt out of hand receive judgement.

For the right underſtanding of theſe two words [*Ampliari & Comperendinari*] we muſt conſider the ancient cuſtomes and ceremonies uſed by the *Romans* in handling their ſuits of law. Firſt, there was *In jus vocatio,* that is, a citation of one into the Court. Secondly, *poſtulatio,* that is, a requeſt put up unto the *Prætor,* that it might be lawfull for the Plaintiffe to Enter his Action againſt the Defendant; whence *Poſtulare aliquem de hoc vel illo crimine,* is to accuſe one of this or that crime. Thirdly, *Nominis delatio,* that is, the taking of the Defendants name into the Court-book: and this was termed, *Intendere actionem, vel Litem*; and *Diem alicui dicere,* that is, to Enter an Action againſt one. In the ſecond of theſe Acts, namely,

namely, when requeſt was made by the Plaintiffe unto the *Prætor*, that he might Enter his Action againſt the Defendant; then the Plaintiffe did *Vadari reum*, that is, demand Sureties or Baile from the Defendant, that he would appear upon the day appointed by the *Prætor*. And the Plaintiffe did again, *Promittere vadimonium*, enter bond alſo for his own appearance upon the ſame day, which commonly was the third day following, called properly *Dies perendinus*, and ſometimes *dies tertius* ſimply, as it appeareth by thoſe capital letters. I. D. T. S. P. uſed to be written in their actions: which letters *i Probus* expoundeth thus; *In diem tertium, ſive perendinum*. So that then properly, *Lis vel reus dicitur comperendinari*, when the giving of Sentence is deferred till the third day. Moreover before the *Prætor* would ſuffer the Action to be entred, he would ſwear the Plaintiffe, that he did not accuſe the Defendant *calumniandi cauſâ*, that is, falſely or maliciouſly, and this kind of ſwearing was termed *Calumniam jurare*, *calumniam de jurare*, and *In litem jurare*. Now if either party were abſent from the Court upon the third day, except he were ſick, he was Caſt in his Suit, and the *Prætor* did grant an Execution called *Edictum peremptorium*, whereby he gave authority to his Adverſary to ſeize upon his goods. Sometimes there were two or three Edicts in manner of Proceſſe or Writs, before the *Edictum peremptorium*, could be obtained; ſometimes it was granted at the firſt, and then was it *k* called *unum pro omnibus*. *l* Now if both parties came into the Court and did appear, then were they ſaid *ſe ſtitiſſe*: ſo that this word *ſiſto* amongſt the Lawyers did ſignifie to ſhew ones ſelf in the Court. Upon the third day the *Prætor* alſo with the whole Bench of Judges did meet, and the *Judex Queſtionis* (whom *Roſinus* maketh a diſtinct Officer differing from the *Prætor*) did cauſe all the *Select* Judges to pull out certain lots, out of an urne or pitcher brought thither for that purpoſe, and thoſe Judges upon whom the lot fell were to ſit in judgement;

i Sig. de jud. l. 1. c. 27.

k Sig. ejuſd. l. c. 28.

l Sig. ejuſd. l. cap. 21.

ment: This was called *Sortitio Judicum.* Now if either the Plaintiffe or Defendant did ſuſpect any of thoſe, that they would be partial, then might he except againſt them, and that was called *Judicum rejectio:* Then the *Judex queſtionis* would in manner aforeſaid chooſe other Judges in their places, and that was called *ſubſortitio.* Which being ended, thoſe Judges which were thus choſen, received every one of them from the *Prætor* three tables, the one having this letter A written in it, betokening *Abſolution*; whence *Tully* calleth it *literam ſalutarem*: The other having this letter C written in it, betokening *Condemnation*: The third having theſe two letters N L betokening *Non liquet.* After the receipt of the tables, then did the *Prætor mittere vel dimittere judices in conſilium*, that is, ſent them to caſt their tables into the urnes, there being three urnes or little coffers purpoſely provided; the one for thoſe Judges which were choſen out of the *Senators*, the other for thoſe that were choſen out of the Gentlemen, the third for thoſe which were choſen out of the *Martial* Treaſurers. Now if they did caſt the firſt ſort of tables into the urnes, then the *Prætor* pronounced the Defendant abſolved; if the ſecond, then he pronounced him condemned; if the third, then he pronounced *Amplius cognoſcendum*, that they muſt have longer time to enquire: And this is properly termed *Ampliatio*, a Reprieve, and in ſuch manner it is ſaid, *quod lis vel reus dicitur Ampliari.* The proofs for this manner of proceeding in law may be collected out of *Roſinus lib. antiq. 9. cap.* 19, 20, & 24. and out of *Sigonius* according to the marginal quotations. The like cuſtome, ſeemeth to have been received alſo among the *Grecians*, who had three letters of their Alphabet, anſwerable to thoſe among the *Romans*; ⊙ was *damnationis ſymbolum*, which occaſioned that of *Perſius*,

Et potis es nigrum vitio præfigere Theta.

Tau token of abſolution, A of ampliation. *Vid. Eraſm. Adag.* ⊙ *præfigere.* Some as it appeareth by *Eraſm.* give a reaſon of ⊙, becauſe it reſembleth the heart of man

wounded

wounded in the midſt with a Dart, others becauſe it is the firſt letter of θανατος, ſignifying death according to that,

Infelix multis theta eſt mihi litera felix.
Si θανατον ſcribit ſcribit & illa θεον.

Cic. pro Cluentio. *Cornelius Sylla* being *Dictator* ordained a law that the chief Judge called *Judex Quæſtionis* with the whole Bench of Judges ſhould ſit upon life and death on ſuch as had killed a man; on ſuch as had with an evil intent ſet any place on fire: on ſuch as ſhould walk with any weapon either to kill or rob a man; on ſuch as had either made, bought, ſold, had, or given any poyſon, thereby to kill a man; on any Magiſtrate, whoſoever ſhould cauſe any conventicle or ſecret aſſemblies, or ſhould give their conſent to the ſuborning of any man to accuſe another falſely, that thereby he being innocent might be oppreſſed and condemned by publique judgement. Moreover *De ejus capite quærito, &c.* that is, Let them ſit upon life and death on that man, which ſhall bear falſe witneſs, that another might be condemned to death; on that Magiſtrate or chief Judge, which ſhall take a bribe to condemn another to death.

Parricidium.] This word doth properly ſignifie only a murthering of ones parents or kinſfolk, but in *Numa Pompilius* his time it ſignified as much as *homicidium*, that is any man-ſlaughter whatſoever.

CAP. 21.

Lex. 12. tabularum de vindiciis.

SI qui jure manum conſerunt, utrique ſuperſtitibus præſentibus vindiciis ſumunto.

Si qui in jure.] Here we muſt note that the cuſtome among the *Romans* in old time was, that as often as any controverſie did ariſe touching the poſſeſſion of an houſe, a field, or any ſuch like thing, the *Prætor* did go unto the houſe, field, or the thing queſtioned, being accompanied

nied thither with the Plaintiff and the Defendant, together with others whom the law required to be present as witnesses. This place, whereſoever it were, though in the open field, during the time that the *Prætor* ſate there to give judgement, was termed in Latine *Jus*, in Engliſh a *Court*. Where in the preſence of the *Prætor* and the witneſs, the Plaintiff and Defendant did *manum conſerere*, that is, as *m Camerarius* ſuppoſeth, argue and diſpute the caſe *pro* and *con* in a ſolemn form of words preſcribed them by the law. For this phraſe is borrowed by the Lawyers from the art military, where ſouldiers are ſaid *manum vel manu conſerere*, when they fight hand to hand, [*utriq; ſuperſtitibus præſentibus*] that is, let both parties in the preſence of witneſſes (ſo *n Feſtus* expoundeth *ſuperſtites* [*Vindicias ſumunto*] that is, let them take a turfe of the ground: for ſo *o Sigonius* expoundeth *Vindiciæ*: though properly (as he obſerveth) it ſignifieth the poſſeſſion of a thing, rather then the thing poſſeſſed. This turfe being taken up, was carried to the *Prætor*, and judgement was given upon that, as upon the whole. I do preſume that in others caſes, as in taking the poſſeſſion of an houſe, &c. ſome other thing in manner of the turfe was preſented unto the *Prætor*, upon which, as upon the whole he gave judgement. In proceſs of time, the *Prætor*, by reaſon of the tumult of other imployments, not finding convenient leiſure to review every particular ground, or houſe called in queſtion, *p* it was ordained contrary to the twelve tables, that the Plaintiff in ſuch caſes ſhould come into the Court, and challenge the Defendant in this form of words, *ex jure manu conſertum te voco*, that is, I challenge thee to go out of the Court into the field, to uſe one towards the other that ſolemn form of words which the law injoyneth. Then did the Defendant either yield the poſſeſſion of the ground, or elſe did reply, *Unde tu me ex jure manu conſertum vocaſti, inde ibi ego te revoco.* Then did they both, taking witneſſes with them, without the company of the *Prætor*,

m I. Camerar. pro L. Muræn.

n Roſin. ant. l. 8. c. 26.

o Sig. de jud. l. 1. c. 21. Vindiciam ferre eſt ſententia decretoque rem obtinere dicebat Vindicias judex ferebat, Vindicias qui rem obtinebat. Turneb. adv. l. 13. 27.

p A. Gel noct. Attic. l. 20. c. 10.

inire viam, that is, go into the ground bringing back a turfe thereof, upon the which (as in manner ſhown) the *Prætor* gave judgement at their return.

For the better underſtanding of this that hath been ſpoken in the explanation of this law, we muſt note, that the action termed *Vindicatio*, was twofold: either the ſuit for the poſſeſſion of a thing, or the ſuit for the Lordſhip, or right owning thereof. The poſſeſſion of any thing was recovered, either by true and real violence, or by a ſeeming violence: this ſeeming violence was twofold, either it was *manus conſertio*, which was ſhown immediately before; or *moribus deductio*, that is a cuſtomary leading the unlawful *poſſeſſor* out of the ground, thereby to enter poſſeſſion. *Vis ſimulata, altera à lege, altera emanavit a moribus*, ſaith *q Sigon.* The firſt of theſe did ariſe from the *Roman* Law, the other from a cuſtome among the *Romans*; the firſt of theſe is to be ſeen in *Tully*, his Oration *pro Murana*, the other *pro Cœcinna*: to theſe *Sigonius* addeth a third kind of ſeeming violence; which how juſtly he hath termed a violence, I ſhall leave to the indifferent judgement of the impartial Reader. The right of the Lordſhip, or owning any thing, was ſued for in this manner: The Plaintiff did queſtion with the Defendant thus; firſt, *an auctor eſſet*? that is, whether he had not covertly made away the poſſeſſion of the thing thereby to fruſtrate the action? Secondly, *an ſponderet*? that is, whether he would put in a gage of money into the Court, which he would forfeit if he were caſt; which being done, the Plaintiff did alſo upon the demand of the Defendant put in a gage of money to be forfeited if he prevailed not in his ſuit. This gage of money was termed *r ſacramentum*; and in this ſenſe, *Tully pro Milone*, ſaith, *Injuſtis, vindiciis & ſacramentum alienos fundos petunt*, that is, they ſue for other mens ground with unjuſt actions and gages of money. Thirdly, *An ſatisdaret*? that is, whether he would put in ſurety, that duting the tryal in law, the ground or houſe called in queſtion ſhould not be impaired? The

q Dei id. lib. 1. c. 21.

r Sigon. de jud. l. 1. c 21.

ſolemn

ſolemn form of words uſed in the firſt demand, is thus to be ſeen in ſ *Tully*, *Quando in jure te conſpicio, poſtulo anne ſies auctor* ? If the Defendant held his peace, then was he adjudged to pay all coſts and damage ; if he profeſſed himſelf the preſent *poſſeſſor*, then did the Paintiff proceed in manner as he ſhould for the poſſeſſion thereof ; if he denied it, then did the *Prætor* ſay unto the Plaintiff *Quando negat, ſacramento quærito*: Thereupon ſaith the Plaintiff to the Defendant, *Quando negas, te ſacramento quinquagenario provoco : ſpondesnè teſoluturum quinquaginta aſſes, ſi auctor ſis* ? to whom the Defendant replied, *ſpondeo quinquaginta aſſes, ſi auctor ſim : Tu vero ſpondeſne idem, ni ſim* ? The Plaintiff anſwered, *Ego quoq; ſpondeo*. Now in this kind of ſtipulation, the Plaintiff was ſaid *ſponſione & ſacramento provocare, ſacramento rogare, quærere, & ſtipulari*, that is, to challenge one to pawn a ſum of mony for the tryal of a ſuit in law. The Defendant was ſaid, *contendere ex provocatione, contendere ſacramento, & reſtipulari*, that is, to be ſued in ſuch manner. This money was termed *ſacramentum*, † becauſe when it was forfeited, it was beſtowed *in rebus ſacris & divinis*. Touching the laſt interrogatory, I read no ſet form of words, but by the word *ſatisdatio*, the intelligent Reader may conject, that it did ſomewhat ſymbolize with our Engliſh cuſtom of putting in bail. ‖ This putting in of bail was twofold. The one was *ſaitſdare judicatum ſolvi*, to bind himſelf to pay what ſhould be adjudged. The ſecond was *ſatisdare ratam habere*, to become bound that he would ſtand to the verdict and judgement of the Court. The firſt of theſe bonds was required to be performed by the Defendant : the ſecond by the Plaintiff's Proctor or Atturney. But if the action were an action of debt, then the Proctors alone became bound ; the Plaintiffs Proctor, that he would ſtand to the judgement ; the Defendants Proctor, that the debt adjudged ſhould be paid,

ſ Cic. orat. pro Mur. & pro Cœcin.

† Sig. de jud. l. 1. c. 21.

‖ Sig. de. jud. l. 1. c. 27.

LIB. IV.

Rites and Customes observed by the Romans *in their Wars.*

De militia.

TOuching the Art *Military* used among the Romans, it will not be impertinent to consider first how War was proclaimed, and peace established by them; then to march on to the description of their bands, or companies, where we may first observe the office of their chief Captain, and their subordinate leaders, together with the several Wards, into which the universal army was divided. After this we may descend unto the diversity of punishments used toward Captives, and likewise toward refractorious and disobedient souldiers: Adding a *Corollary* or *Period* to our whole discourse, the several rewards, which the L. General with his Souldiers after the performance of certain atchievements received.

CAP.

CAP. I.

De ritu, quem Romani, observarunt vel fœdus ferientes vel bellum inferentes; & de triplici ratione conscribendi milites.

WE may remember that it hath been already shewn, that both the proclaiming of war and peace belonged unto a certain order of Roman Priests, called *Fœciales*, who by reason of their office, I Englished *Heraulds at arms*. The rites and ceremonies which they used, when they proclaimed peace, were as followeth, *viz.* One of those Heraulds having his commission from the State (after that both sides had agreed upon the truce and league now to be concluded) took up a stone in his hand, *a* using this solemn form of words: *Si recte & sine dolo malo hoc fœdus atq; hoc jusjurandum facio, dii mihi cuncta fælicia præstent; sin aliter aut ago aut cogito (cæteris omnibus salvis) in propriis patriis, in propriis legibus, in propriis laribus, in propriis templis, in propriis sepulchris solus ego peream, ut hic lapis è manibus decidet*, and therewithal he cast the stone out of his hand: which manner of oath was termed *Jurare Jovem lapidem*, or *per Jovem lapidem*, that is, as it hath been rendred by *Festus* to swear by *Jupiter*, holding a stone in ones hand: *b* Many say that he did cast that stone at an hog or porker brought thither purposely, adding these words to the former; *Si prior populus Romanus defexit publico consilio, tum ille Diespiter, populum Rom. sic ferito, ut ego hunc porcum hodie feriam*: alluding to which custome *Virgil* saith,

Et cæsa jungebant fœdera porca.

The manner of denouncing War hath been already shewn. The act of service in War was termed *Mereri sub hoc vel illo duce*, that is, to serve in War under this or that Captain; and whatsoever souldier was discharged of his service, as having served out his whole time, he was called *miles emeritus*, and by *c Tully* such a one is said *stipendia*

a Polyb. vid. Rosin. antiq. l. 10. c. 2.

b Sig. de jure Ita. l. 1. c. 1.

c Orat. pro lege Manel.

stipendia confeciſſe. [d] *Servius* hath obſerved that the Roman ſouldiers were preſſed three manner of wayes: *per Sacramentum, Conjurationem, & Evocationem.* But [e] *Lipſius* cenſureth him for the amiſs explanation of the laſt member. Therefore the indifferent Reader ſhall give me leave to borrow the termes from *Servius,*] but the explanation of them partly from *Servius*, and partly from *Lipſius* in the places now quoted. Ordinarily ſouldiers at their preſs, did each ſeverally take their oath not to forſake their Captain or Country; and this oath was called *Sacramentum militare*; the words thereof are rendred by [f] *Polybius* thus; *Obtempraturus ſum, & facturus quicquid mandabitur ab imperatoribus, juxta vires*; and thoſe were termed *Milites per ſacramentum.* [g] This ſort of ſouldiers were upon appointed dayes, as it were of publick Muſter, elected and choſen by the military *Tribunes* under the Conſuls; the aſſignment of the day did chiefly belong unto the Conſuls, at which time if any ſouldier withdrew himſelf, and did not appear, he was ſeverely puniſhed, ſometimes by impriſonment, ſometimes by confiſcation of his goods, ſometimes by being ſold for a bondſlave. Upon extraordinary occaſions (as when tumults or commotions did cauſe any ſuſpition of imminent danger) the chief leaders of the ſouldiers did go unto the Capitol, and bring forth two banners or flags, the one red, called therefore *Vexillum Roſeum*, unto which the footmen repaired; the other skie-coloured, called therefore *Caruleum*, which the horſemen followed. The reaſon why the horſemens banner was skie-coloured, is rendred thus, becauſe it did moſt reſemble the colour of the Sea, which colour they deemed moſt acceptable to *Neptune*, who was both the God of the Sea, and the firſt Author of Horſes. Now becauſe the ſudden danger would not yield ſo much time that they might ſeverally be ſworn, therefore did they take their oath in common altegether; only one chief ſouldier throughout a whole legion, took his oath at large, and in expreſs words, the

[d] Serv. l. 2. & 7. Æn.
[e] Lipſ. de milit. Rom. l. 1. dial. 3.
[f] Vid. Lipſ. de milit. Rom. l. 1. dial 6.
[g] Liſp. de Rom. l. 1. dial. 4.
[h] Liſp de mil. 1. dial.

the reſt followed in order one by one, ſaying, Καὶγὼ ὁ αὐτός, that is, that he ſwore the ſame as the firſt. If the Tribune diſtruſted his ſouldiers fidelity, then would he ſwear them every one ſeverally in termes at large, and thence were they called *Milites per conjurationem*; as likewiſe *Milites ſubitarii*, in reſpect of their ſudden preſs: The third member may alſo be admitted, if we with * *Lipſius* underſtand it in its true ſenſe; namely for thoſe ſouldiers, who by the L. General were added unto the Body of their Army, he having authority to call out ſuch other ſouldiers, who for their long ſervice were diſcharged from giving in their names at a muſter: And theſe are generally by all authors termed *Milites evocati* and *Lipſius* deemeth them all one with thoſe whom *Servius* called *Milites per evocationem*. The ſouldiers being thus preſſed, if they purpoſed to make war upon their enemies, then did the L. General ſummon them to prepare themſelves by a ſound of Trumpets: and this was termed *Claſſicum cane, à calando*, which ſignifieth to call. Which being done, a Scarlet banner was hanged out at the L. General his Pavilion, from which ceremony I think that that common adage did firſt ariſe, *Conferre ſignis & Collatis ſignis pugnare*, to joyn battle. Immediately upon this they did *Garritum tollere*, make a great ſhout or noiſe with their voices, to the greater terror of their enemies, and that the noiſe might be the greater, they did *Arma concrepare*, ruſtle together with their armour, and claſh their ſwords. Theſe four ceremonies are to be ſeen more at large in ‖ *Lipſius*. Unto which we may add the fifth, obſerved by *l Fr. Sylvius*; namely, that at the removing of their Camp they did *conclamare vaſa*, give a great ſhout or cry, in token that the ſouldiers ſhould truſs up their bagg and baggage: and hence it is that *m Plautus* uſeth this phraſe, *Colligatis vaſis*, to ſignifie as much as *paratè* or *expeditè*. Now that they might be the readier for the battle, they did gird (as I ſuppoſe) their ſouldiers coats cloſe unto them; and a ſouldier thus girt,

* Lipſ. de mil. Rom. l. 1. dial. 8.

‖ Lib. 4 demil. Rom. dial. 11. & 12.

l In. ep. Viror. illuſt. l. 4. ep. 1.

m Plaut. in Pſeudulo.

girt, was called *Cinctulus*, that is (saith *n Pighius*) *Cinctutus*. *o Inde distinctos ignavos, & militiæ minime aptos putarunt, Precinctos vero fortes, & strenuos.* Hence also is that proverbial speech, *In præcinctu stare*, or *vivere*, to be in a readiness continually:

Non pudet ad morem discincti vivere Natte ! Pers. Sat. 3.

n Pigh. in sua præf. ad l. 1. septim.
o Alex. Gen. dier. l. 1. c. 20.

CAP. 2.

De Legione, Auxiliis, & Legionis partibus.

THe Roman Forces were in old time divided into two several parts; namely, *in Legiones & Auxilia*, into Legions and Auxiliary Bands. The Auxiliary Bands were such forces as the neighbour and confederate Countries did send unto the Romans. The Legions were taken out of the body of the Romans, *p Legio à deligendo dicta est*, from the choice and selecting of souldiers. *q Romulus* is said to have been the first author of these Legions, making every Legion to contain 3000 footmen, and three hundred horsemen, *r* one thousand footmen, and one hundred horsemen being taking out of each national Tribe. Afterward it was augmented by *Romulus* himself into four thousand footmen, *s* whence it was called *Quadrata legio*. And in process of time a Legion increased unto the number of six thousand: which number it seldom or never exceeded (as it appeareth by *Sigon.* in the place now quoted.) Now *t* none could be ordinarily registred for a souldier until the seventeenth year of his age, *u* at which his first admission he was termed *Tyro*, a fresh-water souldier: and hence figuratively *Tyrocinium* hath not been translated only the first entrance into war, but also the initiation, or first entrance into any art or science whatsoever. After he had served many years, then was he termed *Veteranus* an old beaten souldier. *x* The Roman legion was divided *in peditis & equites*, there being commonly for every thousand footmen an hundred horsemen. *Pedites distributi erant in Cohortes.*

p Plut. in Romulo.
q Rosin. ant. l. 10. c. 4.
r Sig. de jur. Rom. l. 1. c. 15.
s Sigon. ibid.
t Alex. Gen. dier. l. 1. c. 20.
u Pancir. l. rerum deperdit. c. de habit. & vest. veter.
x Sig. de jur. Rom. l. 1. c. 15.

Cohortes

Cohortes in Manipulos; Manipuli in Centurias: Equites distributi erant in Turmas, Turmæ in Decurias. The word *Cohors* doth signifie that part of ground, which is commonly inclosed before the gate of an house, which from the same word we call a Court: and *z Varro* giveth this reason of the *Metaphor.* As in a Farm-house (saith he) many out-buildings joyned together make one inclosure; so *Cohors* consisteth of several maniples joyned together in one body. It is manifest (saith *a Alexan.*) that the Romans in antient time did very seldom, yea never (except in great necessity) inroll into their universal army above four legions: and in an ordinary legion, which he termed *Legione justam*, ten *Cohortes*: every *Cohors* containing three maniples, every maniple two Centuries, every Century an hundred souldiers, whence they from *Centum* were called *Centuria* a Century. These Centuries were sometimes divided into lesser numbers call'd *Contubernia*; every *Contubernium* containing ten souldiers besides their Captain, *c* which was called *Decanus*, and *Caput contubernii.* Where we must observe, that *Contubernium* doth signifie as well the pavilion, or lodging it self, as the souldiers lodging therein, and it may be so called *quasi contabernium*, from *Taberna* signifying any sleight lodging made of boards. Those that ruled over a thousand footmen we may in English call *Serjeants-major*: they called them *Tribuni militum.* Those that governed over the Centuries were called by them *Centuriones*, by us in English *Centurions*, and they had their inferior officers under them which were called *Tergiductores*, or *Extremi agminis ductores.* *d* Their office was to oversee and look unto those of the camp which were sick, who commonly came behind the army *quasi extremum agmen, & tergum aciei.* The horsemen were divided into several troops called *Turmæ*; every *Turma* containing thirty horsemen. Again, every *Turma* was subdivided into three lesser companies called *Decuriæ*; every *Decuria* containing ten horsemen: whence their Captain was called *Decurio*, and the Captains over the greater troops, namely over the several

y Edmunds in his observ. upon Cæsars Comment. lib. 2. c. 3.
z Varro lib. 3. de re rustica.
a Alex. Gen. dier. l. 1.
b Varro vid. Rosin. ant. Rom. l. 10. c. 5.
c Rosin. ibid.
d Veger. vid. Rosin. ant. Rom. l. 10. c. 7.

wings of the horsemen were called *Equitum præfecti*. Now the chief Governour over the universal army was called commonly *Imperator*; we in English call him a L. General. His Lieutenant or L. Deputy was called *Legatus*, who in old time was called *non tam ad imperandum, quam ad consulendum Imperatori*. This word *Imperator* in the Roman histories hath a threefold acception; first, it is taken for him, who by commission from the State hath the managing of an Army, being the same that *Prætor* was in antient time; and in this sense it hath affinity with the office of our L. General. Secondly, for such a L. General who by his Prowess *f* having put one thousand of his enemies to the sword, was both by his souldiers saluted, and by the Senate styled by the name of *Imperator*. But if he had slain less than one thousand, he was not thought worthy of this solemn salutation by that name. Lastly, it was taken for a Soveraign Prince, King, or Monarch, in which sense it was the *Prænomen* of all the Roman Emperors, from *Julius Cæsar* forward. Now because the souldiers in a legion must of necessity differ much in estate, age, and experience, some being wealthier, elder, and of more experience then others; hence was it requisite also that there should be a distinction of places in their Armies according to the desert and worth of each several person. We are therefore likewise to understand *g* that the Consuls every year made a general muster: at which time the military Tribunes chose out the youngest and poorest of all the rest, and called them by the name of *Velites*. Their place in regard of other souldiers was base and dishonourable, not only because they fought afar off, and were lightly armed; but also because they were commonly exposed to their enemies as forlorn hopes. According to *h* Lipsius these *Velites* were commonly placed either *In Fronte*, *Viis*, or *Cornibus*. 1. In the front of the Army. Secondly, in the distances, or spaces between the several maniples. 3. *In Cornibus*, that is, in the wings of the battle; not that the

e Lipſ. de milit. Rom. l. 2. dial. 10.

f Bart. Lat. in Phil. orat. 14.

g Lipſ de mil. Rom. l. 1. dial 3.

h Lipſ. de mil. Rom. l. 4. dial. 3.

he wings at any time consisted of those *Velites*, for that was the *Socii* and Auxillary forces; but either the spaces in the wings were filled by those *Velites*, or else they might obtain a promiscuous place amongst those forrainers. Notwithstanding they did like scouts run to and fro casting out their darts (as occasion was offered) and so retire: whence when a man doth leap from one thing to another in his talk, we say he doth *Agere velitatim*. Having chosen out a competent number of these scouts, they proceeded to the choice of them which they called *Hastati*, that is, Pikemen: forasmuch as they fought with a kind of javelling which the Romans called *Hasta*. These Pikemen fought in the first part, or fore-front of the main army. The third choice which they made was of the strongest and highest-bodyed men, who for the prime of their age were called *Principes*: and hence was the second place or ward in the main army called *Principia*, according to *i Thraso* his speech, *Ego ero post Principia*, that is, I will follow the *Principes*; thereby chusing to himself the best and safest place. The last sort of souldiers, which stood in the third place or ward, were called *Triarii*. They were of all the most approved, and the very last help or refuge: so that if they failed, all was lost: and hence ariseth that form of speech. *Ad Triarios ventum est*, *k* whereby we signifie that a thing is come to the last push. As I suppose, the weapon wherewith these *Triarii* fought, was a dart, with Iron fastned at the end of it, called in Latine *Pilum*. The reasons of this my conjecture are these: 1. Because the first Century of these *Triarii* was called *Primum pilum*, and their Centurion *promo-pilus*, and *primipulus*, and *Primus centurio*, because he was the chief Centurion in a whole legion, as having the charge of the chief banner called the Eagle; *l* whence *Aquila* is sometimes used to signifie *Primo pilatum*, the office and place of the *Primopilus*. The second Century was called *Secundum pilum*, and their Centurion *Secundipilus*, &c. Secondly, they called the *Principes*, which marched in the

i Teren. Eun. Act. 4. Scen. 7.

k Alex. Gen. dier. l. 5. c. 15.

l Lips. de mil. Rom. l. 2. dial. 1.

battle immediately before these *Triarii*, *Antepilanos*: which argueth that those souldiers which followed next, should be the *Milites pilanis*, and by consequence their weapon should be that kind of dart which they called *pilum*. Their manner of embattling was divers. Sometimes they would make a winged army, so that the main body thereof should be in the middle, and on each side a lesser company: the main body we in English call the *Vauntguard*, and the two lesser companies we call *Wings*; as likewise in Latine they call them *Alas aciei, & dextrum vel sinistrum eorum*. *m Pancirol.* calleth them *Vexillationes*, because there fought no more in either wing than belonged to one banner called in Latine *vexillum*. The governors of these wings he calls *Alarum præfectos*. Sometimes they embattled, so that the forefront of the army being small, it was inlarged bigger and bigger backward, in manner of a triangle: By *n Lipsius* it is demonstrated unto us under the form of the Greek letter Δ. He in the same place calleth it *caput porcinum quia velut fodit, & ruit invadendo*. Commonly it is called, *Cuneus militum*, the *Metaphor* being borrowed not only from the resemblance it had with a wedg, but that also from the use of a wedg: for they never embattled in that form, unless it was to break through their enemies, the piercing angle being thick compacted with targets. Sometimes they did in a quite contrary manner, inlarge their army in the forefront, making it to end in an angle: and *o* this they called *forfex*, and *forceps militum*. Sometimes their form of embattling was circular, and then it was called *Orbis, vel globus militum*. The banner or flag was properly called *Vexillum*, being a diminutive of *Velum*. It was also called *p Bandum*: whence we do at this day call so many souldiers, as do fight *sub eodem bando*, a band of souldiers: as *Romulus* called those that fought *sub eodem manipulo fœni* (an handfull of hay being used at that time in stead of a flag) *Manipulum militum*: *Ovid*,

Percita suspensos portabat longa maniplos,
Unde maniplaris nomina miles habet.

Suidas is plain, βάνδον καλεῖσι ῥωμαῖοι τὸ σημεῖον τὸ ἐν πολέμῳ, τοῦ

m Pancir. in notit. orient. & occident. imper. c. 32.

n Lips. de mil. Rom. l. 4. dial. 7.

o Lips. ibid.

p Festus vid. Pancir. in not. orient. & occident. imper. c. 32.

*Suid. in voce βάνδον.

that is, The Romans called their military ensign a *Band*; hence others have used βανδοφορ to signifie as much as *Signifer*, an Antient bearer.

CAP. 3.

De oppugnatione urbis, & iis quæ ad oppugnationem requiruntur.

IF the siege of a town seemed difficult and hard to compass, then did the Romans use certain means of policy, for the better effecting thereof. They environed the town with a broad and deep ditch, adding thereunto a rampire, fortified with many Castles and Fortresses; whereby they both kept the town from any forrain succour, and withall secured themselves from sallies, and other stratagems. This rampire did extend it self towards the walls of the City; so that by making (as it were) a great hill, they might overtop the City, and fight with the greater advantage. Now that this greater heap of earth might become firm, and well able to support the buildings to be erected upon it, they did cast in much timber, and stones amongst the earth; and this heap of earth, stones, and timber when it was reared, was properly called *Agger*, whence cometh both the Latine verb *Exaggarare*, and the english of *Exaggerate*, that is, to amplifie or encrease a matter. The stakes, posts and trees, which were rammed in about this bulwark, or rampire, to uphold the earth, were sometimes called *q Cervi*, because of their forked and sharp tops, but more properly *r Valli*, & *Valla*. The distance or space between each stake, was called *Intervallum*; though now *Intervallum* doth signifie not only such a distance, but any distance either of space or time, as it appeareth by that of *Tully*, *ſ Intervallo locorum, & temporum disjuncti*. Sometimes *Vallus* doth signifie a pole or stake, whereunto vines are tied, according to that received adage which we use when a special friend forsaketh one, *Vallus vitem decepit*. From the first signification it is, that

Vallum

q Lipſ. Pol. l. 2. dial. 2.

r Serv. Æn. l. 10.

ſ Cic. ep. fam. l. 1. ep. 7.

Vallum doth often ſignifie the incloſure, or hedging in of trees or ſtakes, wherewith the bulwark is upheld; alluding whereunto *t A.Gellius* tranſlates ἔρκος ὀδόντων *Vallum dentium*. The meanes of their defence, whileſt they were making their rampire, was a certain engine or ordnance of war *u* made of planks and hurdles running upon wheels, under which they might reſt ſecure from all ſtones and darts caſt from the walls of the City: it was called *Vinea*. A ſecond engine was *Muſculus*. The matter whereof it was made I have not read; but the uſe of it was, that under it the ſouldiers might approach unto the walls of the City, and undermine them. Thus much *x Lipſius* ſeemeth to infer, when he rendreth the reaſon of the name: *Muſculus ideo dictus, quia inſtar ejus animalculi foderent ſub eo terram*. A third meanes of their defence was *Militaris teſtudo*. This word *teſtudo* in the Art Military, had a double acception, both being borrowed from the reſemblance of the Tortoiſe-ſhell, which is the true and genuine ſignification of this word. In the firſt acception *Teſtudo y* doth ſignifie a warlike engine or fence made with boards covered over with raw hides, which ſerved againſt fire and ſtones caſt at the ſouldiers; under this they might ſafely aſſail the walls. *z* In the ſecond acception it ſignified a Target-fence, which was a cloſe holding together of Targets over head like a vault or roof, wherewith the footmen did defend themſelves from the thick ſhot of arrowes, or ſlinging of ſtones. Their rampire or countermure being finiſhed, they uſed certain great timber Towers made upon wheels to run to and fro, which they called *Turres ambulatoria*, moveable turrets. Theſe Towers had many ſtories one over the other, *a* wherein they carried ladders and caſting bridges, thereby to ſcale the walls. The engines hitherto have been defenſive, ſuch wherewith the Romans defended themſelves in their ſiege: others there were offenſive, wherewith they did aſſail the City; and of thoſe the chief were *Baliſta ſive Catapulta, Scorpius ſive Onager, Aries, & Mulleoli.*

t A. Gel. noct. Attic. l. 1. 15.

u Roſin. ant. Rom. l. 10. 16.

x Lipſ. Polior. l. 1. dial. 9.

y Roſin. ant. l. 10. c. 11.

z Stad. in Flo: l. 4. c. 10.

a Roſin. ant. Rom. l. 10. c. 16

Mulleoli. The first of these engins, as it was called *Balista* ἀπὸ τῦ βαλλειν, from darting, or casting forth any thing, *b* so it was in old time called *Catapulta*, ἀπὸ τῆς πάλτης, which signifieth a shaft or dart; though it cannot be denied, but that *Pelta* doth also signifie a kind of shield made in the form of an half moon, according to that of *Virg. Æn. l.* 1.

b Lipſ. pol. l. 2 dial. 2.

Ducit Amazonidum lunatis agmina peltis
Penthesilea furens———

The form thereof followeth, translated word for word out of *c Marcellinus*. [Between two planks there is set in frame, and fast joyned a strong and big Iron, reaching out in length after the manner of a good great rule; out of the round body whereof, which is artificially wrought, there lieth forth farther out a four square beam, made hollow with a direct passage in manner of a narrow trough, tied fast with many cords of sinews twisted one within the other, and thereunto are joyned two wooden skrews: near unto one of which standeth the cunning Blister, and subtilly putteth into the hollow passage of the beam a wooden shaft, with a big head glewed fast to it. This done, on both sides two lusty young men do bend the engine by turning about certain wheels: When the top of the head is drawn to the uttermost end of the cords, the shaft being carried forth of the Balista, by the inward force thereof, it flieth out of sight. That the reader may receive the more light in the understanding of this obscure description, I have added the very words of *Marcellinus*. *Ferrum inter axiculos duos firmum compaginatur & vastum, in medium regulæ majoris extentum; cujus ex volumine teretis, quod in medio ars polita componit, quadratus eminet stylus extensius recto canalis angusti meatu cavatus, & hac multiplici chorda nervorum tortilium illigatus, eiq; cochlea duo lignea conjunguntur aptissimè, quarum prope unam adsistit artifex contemplabilis, & subtiliter adponit in temonis cavamine sagittam ligneam, spiculo majore conglutinatam, hocq; facto hinc inde validi juvenes versant agiliter rotabilem flexum. Quum ad extremitatem nervorum acumin venerit*

c Am. Marc. l. 23. c. 3.

rit ſummum, percita interna pulſu à baliſta ex oculis evolat. In reſpect of its uſe we may Engliſh it a *Croſs-bow*: but it was much bigger, and of a different form. The *Scorpion*, which now they call *Onager*, is deſcribed by *Marcellinus* in the ſame place thus. Two Oaken or Elm beames were hewn out, and ſomewhat bended, ſo that they ſeemed to bunch out in backs; and theſe in manner of a * ſaw engine are tied faſt together, being bored through with wide holes, through which (by the meanes of thoſe holes) ſtrong cords are tied, keeping in the whole frame that it ſtart not aſunder: * From between thoſe bunches another wooden beam reaching forth overthwart, and in a manner of a wain-beam erected up, is tyed with ſuch devices unto certain ropes, that it may be pulled up higher, or let down lower at ones pleaſure; and at the top thereof certain iron hooks are faſtned, from which hooks there hanged down a certain ſling either of Iron or Tow; under which erected beam, there lieth a great peice of hair-cloath, full of ſmall chaff, tyed faſt with cords, and placed upon a bank of turfs, or a heap of bricks. When therefore it cometh to the point of skirmiſh, a round ſtone being put into the ſling, four young men on one ſide looſing the beames, into which the ropes are incorporated, do draw back the erected beam unto the hook. Thus at length the maſter of the engine ſtanding in ſome high place giving a mighty ſtroak with a hammer (and as I ſuppoſe upon the cord, whereunto the erected beam was faſtned with his hook) ſetteth open the rails that contain the whole work, inſomuch that this erected beam being now at liberty with that quick ſtroak, and hitting againſt the ſoft hair-cloath, it hurleth out the ſtone, that will batter whatſoever is in the way. And it is called *Tormentum, quod ex eo omnis explicatio torquebatur.* It is alſo called *Scorpio*, becauſe when the long beam or pillar is erected, it hath a ſharp top, in manner of a ſting. The modern time hath impoſed unto it the name of *Onager*, that is a wild Aſs, becauſe that wild Aſſes, when they

* Machinæ Serratoriæ. *Ab. hac. medietate reſtium. Here we muſt note, that this ſignification of teſtes is borrowed from the Anatomiſts, which do call certain eminent parts behind φαλλιδεσδες Teſtes. Vid. Fuceſ. Inſtit. med. l. 1. Sec. 5.

they are coursed by hunters, fling back stones with their heels a far off, so that oftentimes they pierce the breasts of them that follow them. The Latine word is made from the Greek ὄνος, *i.e. Asinus & ἄγρος, rus vel ager.* Now if any ask me, why that sackcloth, or ashes was interposed, the reason is rendred by *Marcellinus*, in two lines, which I purposely did not translate in their place, because I would continue the sense without such a long *Parenthesis*. The reason is there delivered thus; because the violence and force of the erected beam recoiling, after it had been by the stroak discharged, was such that it would shake in pieces the strongest walls, except there were some soft thing interposed, whereby the forcible strength of the recoil might be by degrees slaked. The *Aries* or Ram, is described also by *Marcellinus* in the same place. [The Ram was a great tree or beam, *like unto a mast of a Ship*, having a piece of iron, in manner of a Rams head, fastned at the end thereof, wherewith they did demolish and batter down the walls of a City. It was hung unto a beam, which lay across over a couple of pillars, and hanging thus equally ballanced, it was by force of men pulled backward, and then recoyled upon the walls] The Rams which *Titus* used at the siege of *Hierusalem*, ran upon wheels: which kind of Rams are described by *Josephus*. There be, saith he, other manner of engines, as an iron Ram upon four wheels bound with iron, and fastened with iron nails, to this they make four feet answerable to the bigness of the beam, and every foot hath his several wheel, and when they will batter the wall, certain men first pulling it back, they recoil it by the help of four wooden leavers put in the hinder part thereof for that purpose. The head of this Ram hath no hornes, but is blunt, made of the strongest kind of iron, with a wonderful thick neck. They have also on both sides of the Ram a pentise of wood for the safeguard of those that recoil it. *Josephus Ben. Gorion de bello Judacio.* In lieu of these Rams another engine was found out, cal'd *Helepolis, ab inusitato*

Ἑλω, that is, *capio*, and πόλις, that is, *civitas*. The form of it is to be seen also in *Marcell.* ibid. [There was (saith he) a *Testudo*, or vaulted frame made, strengthned with very long pieces of Timber: it was covered over with Oxe hides, and green wicker hurdles: the upper part or convex sur-face thereof was overlaid with mudde, to the end that it might keep off the fall of fire and casting of weapons. Now there were fastned in the front of it certain *Cuspides trisulcæ*, that is, iron pikes with three edges very massie, in manner of the thunderbolts, which Painters and Poets exhibit unto us. This great Engine, the Soldiers ruling within, with diverse wheeles and ropes, with main force they thrust it against the walls.] [*Malleoli* (saith the same *Marcellinus*) were certain darts fashioned on this manner: there was an arrow made of a cane, betwixt the head and the neck whereof was fastned an iron full of clefts; which arrow, like unto a womans distaff, on which linnen is spinned, was finely made hollow within the belly, yet open in many places: In the belly it received fire with fuell to feed upon. And thus being gently discharged out of a weak bow (for with an over strong shooting the fire was extinguished) if it took fast hold on any place, it burned the same; and water being cast thereon, the fire increased, neither was there any means to quench it, but by casting dust on it.] Now if they could not prevail by these Engines called *Machinæ*, then did they make certain passages under ground, which they called *Cuniculi* from *Cuniculus*, signifying a cony-berry: insomuch that these two phrases are opposite, *Machinis*, and *Cuniculis oppugnare*, as it appeareth by that of *d Plutarch*, *Cæsar non jam cuniculis, sed machinis tollit rempublicam*, that is, He doth not now covertly, but with open violence assault the Commonweal.

d Plutarch in vit. C. Cæs.

CAP.

CAP. 4.

De pœnis in hoſtes de victos.

ALbeit, after the Victory, the *Romans* inflicted diverſe degrees of puniſhment, according to the malice found in an Enemy: yet were they always compaſſionate, and (as Hiſtories teſtifie) more exorable then any other nation. The puniſhments which we find them to have uſed towards a conquered nation are theſe. Either they puniſhed them by death, or ſold them *ſub corona*, or diſmiſſed them *ſub jugum*, or merced them in taking away their territories, or made them tributary States. *c* An Enemy was ſaid to be ſold *ſub corona*, when he being placed in the market-place, a Crown was put upon his head in token of ſuch a ſale: or therefore certain Captives were ſaid to be ſold *ſub corona*, becauſe at ſuch times they were environed about with Soldiers to keep them together, and this circle of Soldiers, as likewiſe of all other companies, is called *Corona*. When they diſmiſſed any *ſub jugum*, *f* they erected two ſpears, with a third lying a croſs in manner of a Gallows: then they cauſed them being diſarmed, and their belt taken away, to paſs under in token of bondage. When their territories were taken from them, they were commonly conferred upon old beaten Soldiers, in way of remuneration for their faithfull ſervice. This tranſplantation was termed *Coloniæ deductio*; and the place ever after *Romana Colonia*, that is, a Roman Colonie. At which times they choſe out every tenth man, *viz.* ſuch as were able, and of beſt ſufficiency to make and eſtabliſh a publick counſell, *g* whom they named *Decuriones*. Whence we may obſerve, that *Decurio* is not always taken for a Captain over ten horſemen, but ſomtimes it is uſed to ſignifie an *Alderman* or chiefe Burgeſs in a *Roman* Colony. Theſe Colonies were of two ſorts, ſome called *Colonia Latina*: others *Italica*. The Latine Colonies had *Jus Civitatis, ſuffragii & Magiſtratus capiendi*,

c A Gel. 7. c 4.

f Stad in Flor. lib. 1. c. 12.

g Sig. de jure, Ital. l. 2. c. 4.

di, si in sua Colonia magistratum gessissent. Italicis autem, Jus civitatis & suffragii nullum erat, immunes tamen erant: nec tributum aut stipendium pendebant, ut provinciæ solebant. Turneb. adverss. l. 1. *c.* 11. Divers times the Romans would be content after the conquest to grant to their enemies a peacable injoying of their lands & possessions, conditionally that they would yeild all faithful allegiance unto the L. Deputy, whomsoever the *Senate* of *Rome* should place over them. The L. Deputy was either stiled by the name of a *Prætor*, a *Proconsul*, or a *præfectus*. Those places where the two first sorts of Govenours did rule, were termed *Provinciæ*; the other from the governor was termed *Prefectura*. Where we must observe that this word *Provincia* hath a threefold acception. First it is taken for a Countrey, which by the force and power of armes, is subdued to the Roman Empire, and governed by some Roman Deputy sent from the Senate; and this is the proper and primitive signification thereof, it being so called, *h Quod populus Rom. eam provicit, id est, ante vicit*. Secondly, it is taken for any region or Country, where the L. Gen. or chief Captain over a Roman Army doth manage War against any nation by commission from the Senate. Lastly, it signifieth any publick function, or administration of office, yea any private duty, charge, or task, either undertaken or imposed; according to that of *i Terence Provinciam cepisti durum*, that is, thou hast undertaken an hard task. Now the Tribute to be paid, was either certain or uncertain. The certain was properly called *Tributum, vel Stipendium*, and those who paid it were termed *Tributarii sive Stipendiarii*, and this tribute was of two sorts, either ordinary, such as was required from every house yearly, even in the time of peace; or extraordinary, such as was leve'd by a law or decree of the Senate towards unexpected charges. The uncertain tribute *k* properly called *Vectigal*, was either impost-money, such as was collected in haven towns for the transportation of Merchants wares, and that was called from

h Pigh. lib. Tyrannif.

i Terent. in Phor.

k Sig. de jur. Rom. l. c. 16.

Portus

Portus, *l Portorium*, or from *Porta Portarium*, and the receivers thereof *Portitores*. The wars after the impost-money had been paid, were sealed by the *Publicani*, with a certain kind of tempered chalk: and this is that which *Cicero* understandeth by *Asiatica creta. Orat. pro Flacco*: or tithe corn, namely the tenth part of the grain; and that was cal'd from *Decem*, *Decuma*, and the receivers thereof *Decumani*, though *Decumanus* when it is an adjective, signifieth as much as *Maximus*, according to that of *Ovid. l. 1. de trist.*

l Stadius in Flor. l. 1. c. 13.

Qui venit hic fluctus, fluctus supereminet omnes;
Posterior nono est, undecimo q, prior.

The reason of this signification is *m* supposed to be, because in *Arithmetick* amongst simple numbers the tenth is the greatest: or lastly, that money which was paid by certain herdsmen for pasturing their cattle in the Romans fields and forrest: This kind of tribute was called *Scriptura*, and the pastures *Agri Scripturarii*; because (as *n Festus* saith) the Bayliff or receiver of this money, called *Pecuarius*, did *Scribendo conficere rationes*, that is, keep his account by writing: Where we must note, first, that all these kinds of Tributes were not only required in Provinces, or Countries subdued, but throughout *Italy*, even in *Rome* it self. Secondly, though each collector of these Tributes was distinguished by a peculiar name; yet by a general name they were all called *o Publicani*, in as much as they did take to rent these publick tributes. The chief of them which entred into bond, as the principle takers or farmers of these tributes, *Tully* calleth *Mancipes*. The others, which were entred into the same bond as sureties, were termed *Prædes*. Many times the Romans did bestow the freedome of their City upon forein Countries; and the degrees of freedom were proportioned accordingly as the Countries were. Some they honoured with the name of Roman Citizens, but excluded them from the right of suffraging, leaving them also to be governed by their own Laws and Magistrates.

m Fr. Sylv. in viror. illust. ep. 2. l. 1.

n Sig. de jur. Rom. l. c. 4.

o Cic. de *Arusp. respons.* & alias sæpe

This state they called a *Municipal* state, in Latin *Municipium*, because they were *Muneris hujus honorarii participes*. p By *Munus honorarium*, in this place is understood nothing, but the bare Title of a *Roman* Citizen, whereby they were priviledged to fight in a Legion, as free Denizons; not in an auxiliary band, as the associates. Now the first that ever obtained this Municipal state, were the *Cerites*, who for preserving the holy things of *Rome* in the time of the War against the *Gaules*, were rewarded with the Freedom of the City, but without power of suffraging: * From whence it is, that those Tables wherein the *Censors* inrolled such as were by them deprived of their voices, were called *Ceritae Tabulae*; *Horace* calleth such a Table *Ceritem ceram*, for the reason shewn before. But we must withal observe, that some Municipal Towns have either by desert or instant suit obtained the liberty of suffraging also, which occasioneth that received distinction, that there was *Municipium sine suffragio*, and *Municipium cum suffragio*. Other countries which could not be admitted into the freedom of the City, have obtained, and that not without special and deserved respects, to be associates and confederates unto the state of *Rome*. The inhabitants of such countries were sometimes called *Socii*, sometimes *Amici*, sometimes *Latini nominis socii*, &c. The King or Prince of such a country did stile himself *Amicus & Socius Senat. & Pop. Rom.* Here we must observe a difference between *Pactio* and *Fœdus*, both signifying a kind of league. That truce which in time of war is concluded upon, and accepted of both sides for a certain q limited space of time, is properly called *Pactio*; we commonly call it *Induciæ*, and it differed from *Fœdus*: r first because that *Fœdus* is a perpetual truce or league, secondly because it was necessary, that one of those *Heralds at Armes*, called *Fœciales*, should by a solemn Proclamation confirm this league called *Fœdus*, neither of which conditions was absolutely requisite in their truce termed *Pactio*.

p A Gel. noct. Attic. lib. 16. cap. 13.

* A Gel. ibid.

q Sig. de jure Ital. l. 1. cap. 1.

r Sigon. ibid.

CAP.

CAP. 5.

Mulctæ militares, quibus milites Romani ob delicta afficiebantur.

TOuching the punishments that the *Roman* L. General used towards his own Soldiers, when they were faulty, they were commonly proportion'd unto the fault committed. Somtimes they were easie, of which sort were also those punishments which did only brand the Soldiers with disgrace: other times they were heavier, such as did hurt and afflict the body. To the first sort belonged these: First, *Ignominiosa dimissio*, that is, a shameful discharging of a Soldier, when he is with disgrace removed from the Army. Secondly, *Fraudatio stipendii*, that is, a stopping of their pay: and such Soldiers which suffered this kind of mulct, were said to be *ære diruti*, because *Æs illud diruebatur in fiscum, non in militis sæculum.* Thirdly, *Censio hastaria*, whereby the Soldier was injoyned to resign, and give up his spear: for as those which had atchieved any noble act, were for their greater honour *Hasta pura donati*; so others for their greater disgrace were inforced to resign up their spear. Fourthly, the whole *Cohors*, which had lost their banners, were compelled to eat nothing but barly bread, being deprived of their allowance in wheat; and every Centurion in that *Cohors* had his Soldiers belt or girdle taken from him, which was no less disgrace amongst them, then it is now amongst us, that a Knight of our order of the Garter, should be deprived of his Garter. Fifthly, for petty faults they made them to stand bare-footed before the L. General his Pavillion, with long Poles of ten foot length in their hands: and somtimes in the sight of the other Soldiers to walk up and down with turfs on their necks. In the last of these they seemed to imitate their city discipline, whereby malefactors were injoyned to take a certain beam resembling a fork upon their shoulders, and so to carry it round about the town. It hath some affinity with our carting of *Queans* here in *England*. In the first we have

f Rosin. ant. l. 10. c. 25.

no

no custome that doth more simbolize, then the standing in a white sheet in the open view of a congregation. The last of their lesser punishments, was the opening of a vein or letting them blood in one of their armes: *t* which kind of punishment was used towards those alone, which (as they conceited, through the abundance of their hot blood) were too adventurous and bold. The heavier kinds of punishment were these; 1. *Virgis, vel fuste cædi*, to be beaten with rods, or staves and cudgels. None were ordinarily beaten with cudgels, but those who had not discharged their office, in the sending about that table, called *Tessera*, wherein the watchword was written; or that had forsaken their place, where they were appoynted to keep watch; or those who had stollen any thing from out of the Camp, or born false witnesse against their fellowes, or abused their bodies by women: or lastly, that had been punished thrice for the same fault: those that were in this manner cudgelled, were often killed in the place, but if they escaped alive, they went to live in perpetual exilement. The ceremony used in this kind of cudgelling was, that the *u* Knight Martial should lightly touch the party to be punished with a club, which being done, all the souldiers did beat him with staves and cudgels, whence we may say of one that deserveth a good cudgelling in *x Tully* his phrase, *Fustuarium meriter*. *Polib.* calleth it Χυλοκοπιαν. *Vid lips. de milit. Rom. lib.* 5. *dial.* 18. If a Roman souldier had broken his rank by going out of order, then *Virgis cædebatur*, that is, he was scourged with rods. Sometimes the Knight Martial upon just occasion would cause them to be sold for bondslaves, to be beheaded, to be hang'd. All these punishments were personal or particular; there remaineth one which was general, namely when the fault was general, as in their uproars, conspiracies, *&c.* Upon such occasions the souldiers were called together, and every tenth man upon whom the lot fell was punished with that kind of cudgelling above spoken of; all the other escaped either

Alex. Gen. dier. l. 2. c. 13.

u Trib. milit.

x Cic. orat. Phil. 3.

there without punishment, or with very little. The punishment it self was termed *Decimatio Legionis*, and the reason of this kind of punishment is rendered by *y Tully*, *ut metus viz. ad omnes, pœna ad paucos perveniret*. Sometimes such was the clemency of the L. General, that he would punish only the twentieth, nay the hundreth man, and then it was called *vicesimatio, vel centesimatio legionis*.

y Cic. pro Cluent.

CAP. 6.

De donis militaribus ob rem fortiter gestam.

COncerning the rewards which were bestowed in war, some were by the Senate conferred upon the L. General: others were by the L. General conferred upon his souldiers. Those honours which the L. General received were three, First, *Nomen Imperatoris*, of which before. Secondly, *Supplicatio*, that is a solemn procession continued for many dayes together, sometimes more, sometimes fewer: all which dayes the Roman people did observe as holy-dayes, offering up daily prayers and Sacrifices to the Gods in the behalf of their L. Gen. The custome being that after some notable victory the souldiers having saluted their chief Captain (whom I call their L. General) by the name of *Imperator*, then would he send letters unto the Senate, dight with Laurel, wherein he required both that name to be confirmed, and approved by them, as likewise that they would *Decernere Supplicationes*, that is, appoint such solemn supplicationes. Thirdly, they honoured him also at his coming home with a triumph: *Tryumphus vel major, vel minor erat*, saith *Alexander*. The lesser kind of triumph was properly called *Ovatio a ove*, from a sheep, which in this time of his triumph, was led before him, and afterward sacrificed by him, as also in the greater triumph (called properly *Triumphus*) the L. General sacrificed a Bull: it differeth from the greater triumph, first, in the acclamation; for in the lesser triumph the souldiers following did as it were redouble this letter O, and some are of opinion that it was there-

z Salmuth. in Panein. l. rerum de perd. c. de triumph.

fore called *Ovatio*. In the greater triumph the *souldiers* followed, crying, *Io triumphe, Io triumphe*: an example whereof may be seen in *a Horace*, where he describeth the triumph of *Bacchus*, the first Author of this greater tryumph; from whose *b* name also divers Authors do derive this word *Triumphus*, he being in Greek called Θριαμβος, which by a little change is made *Trimphus*. Secondly, they differed, because in the greater Triumph the L. Gen. did wear a garment of State, called by some *Trabea c* by others *Triumphalis, Picta vel Aurata vestis*; likewise a garland of Laurel, riding in a chariot, the *Senators* themselves, with the best of the Romans, meeting him, his souldiers with their coronets, their chains, and other rewards, following after: but in the lesser triumph the L. General did wear a plain Purple Gown, without any Gold imbroidering, and a garland of mirtle, *d* commonly going on foot, sometimes permitted to ride on a horse; the Gentlemen and commonalty of *Rome* alone, without the *Senators*, did meet him. Moreover, for a perpetual memory of this their triumph, in some publick place certain trophies were erected. *e Trophæum monumentum dixere, nunc marmoreum modo æneum, cum inscriptione & titulis ævo perpetuo duraturis, f Dictum est* ἀπὸ τῆς τροπῆς, *id est, à conversione*, from making the enemies to retire and turn back. Sometimes there were statues, colums, and arches built, in token of triumph. These arches, though commonly they were known by the name of *Arcus triumphales*, yet sometimes they are called *g Fornices*, whence is it that *Tully* calleth *Fabians* triumphal arch *Fabianum fornicem*. If it so hapned, that the Roman General himself, personally, did take away any spoiles from the chief Captain of the enemies, then did he hang them up in a temple consecrated to *Jupiter Feretrius*; who was so called, because *h* as the Romans conceited, without the special assistance of *Jupiter*, *Dux ducem ferire non poterat*: these spoyles had the name of *Opima spolia*, that is, Royal spoyles. The rewards bestowed

a Ode. 2. l. 4.

b Salmuth. in Pancir. l. rerum de perd. cap. de triumph.

c Alex. Gen. dier. l. 6. c. 17.

d Dion. Hal. lib. 5.

e Alex. Gen. dier. l. 1. c. 2.

f Serv. Æn. l. 10.

g Fr. Sylv. in orat. Cic. pro Cn. Plancio.

h Alex. Gen. dier. l. 1. c. 14.

ed upon the ſouldiers were divers: either places of offices, as the place of a Centurion, of a *Praſectus*, a *Decurio*, *&c.* or their pay was increaſed, the ſpoils diſtributed amongſt them: or laſtly, they received certain gifts termed *Dona militaria*. In antient times thoſe ſouldiers which had beſt deſerved, received a certain meaſure of corn, called by them *Adorea*, *i* and hence it is that *Adorea* is now uſed to ſignifie ſuch laud and praiſe as is due unto a ſouldier. But after ages, for the better encouraging of the ſouldiers, have found out more honourable rewards, of which *k* theſe were the chiefeſt; *Armilla*, that is, a bracelet for the hand-wreſt; *Torquis*, a chain to were about their neck; *Phalaræ*, horſe-trappings; *Haſta pura*, that is, a ſpear, having no iron at the end of it (it is ſometimes called *l Haſta donatica*, and *Haſta graminea*,) Laſtly, *Coronæ*, crowns of which *Aul. Gel. lib. 5. cap. 6.* obſerveth theſe to have been the chief: 1. *Corona triumphalis*, which in old time was made of Laurel, but afterwards of Gold, and thence it was called *Corona aurea*: it was ſent by the Senate unto the L. General, in honour of his triumph; Secondly, *Corona obſidionalis*, which was given by the ſouldiers unto the General when they were freed from a ſiege; it was made of graſs growing in that place where they were beſieged, whence it had the name alſo of *Corona graminea*. Now the reaſon why they made this crown of graſs growing in the place where they were beſieged, was thereby to yield up their right in that place unto their Captain: for by that ceremony, as *m Pliny* obſerveth, they did *Terra & ipſa altrice humo & humatione etiam cedere*. And hence it is, that in races, and the like maſteries, he that was overcome, did gather ſome of the graſs of that place, and gave it unto the conqueror, as a token that he did acknowledg himſelf conquered; *n* this is the reaſon of that Adage, *Herbam dare*, that is, to yield the victory. Thirdly, *Corona civica*, which was beſtowed only upon him which had ſaved a Citizens life, *o* though in proceſs of time it was alſo beſtowed upon the L. Gen. if he ſpared a Roman Citizen when he had power to kill him.

i Alex. Gen. dier. l. c. 18.

k Sig. de jur. Rom. c. 15.

l Roſin. ant. l. 10. c. 17.

m Plin. l. 22. c. 4.

n Salmuth. in Panc. l. rerum de perd. c. de coronis.

o Pigh. l. Tyrannif.

him: It was commonly made of Oak; whence it was called *Corona quercea.* And this I take to be the reason why in *Ovids* time the Emperor had alwayes standing before his gates an Oak tree in the midst of two Laurels, as an emblem denoting two worthy vertues required in all Emperors and Princes: first, such whereby the enemy might be conquered: secondly, such whereby Citizens might be saved. Unto this *Ovid* seemeth to allude, speaking of the Laurel tree,

p Ovid. Met. l. Fab. 9.

p Postibus Augusti is eadem fidissima custos
Ante fores stabis, mediumq; tuebere quercum.

q Dion. Hal. lib. 10.

Fourthly, *Corona Muralis.* *q* He only was honoured with this, which did first scale the walls, and enter first into the enemies City: and hence this crown was put upon the circlet, or top, like unto the battlements. Fifthly, *Corona Castrensis*, This the L. Gen. bestowed on him which first entred into the enemies tents: it did bear in itthe resemblance of a bulwark, or at least of the mound wherewith the bulwark was strengthned: which mound was called in Latine *Vallum*, and thence the crown it self was often cal'ed *Vallaris corona.* Sixthly, *Corona navalis*, with which he was honoured, which first entred into the enemies ship in a battle upon Sea: it was portrayed with many ship-beakes called in Latine *Rostra*, *r* whence the crown it self was often called *Corona Rostrata.* That Roman *Hercules Siccius Dentatus* obtained almost all those several rewards, and that each many times. Lastly, *Corona ovalis*, it was made of Mirtle tree, the L. General used it in the lesser kind of triumphs, called *Ovationes*, from whence the Coronet it self was named *Ovalis* It was then bestowed, when the Herald had committed some error in denouncing war; or when the enemies conquered were of mean rank and place, as Servants, or Pirats; or else if the victory were gotten without bloodshed, or great hazzard, the enemies yielding without resistance. *In quibus impulvereis & incruentis victoriis, ap am esse Veneris frondem crediderunt, quod non Martius, sed quasi Venereus quidam triumphus foret.*

7 Pigh. l. Tyrannif.

ſ A. Gel. noct. Attic. l. 2. c. 11.

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